



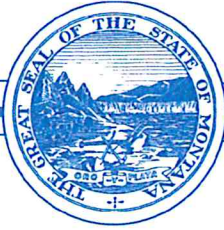
Montana Invasive Species Council

Meeting Packet for August 21, 2019

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MONTANA INVASIVE SPECIES COUNCIL



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FOR IMMEDIATE RELEASE

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August 6, 2019

Montana Invasive Species Council meets August 21

HELENA, Mont — The Montana Invasive Species Council (MISC) will hold its next meeting August 21, 2019, from 10:00 am to 4:00 pm at the State Capitol Building, Room 172 in Helena.

The morning portion of the meeting will focus on administrative business including a review and action on MISC's work plan and budget for 2019-2020. Project updates will also be provided in the morning, including outcomes from the *Mogulones crucifer* science advisory panel.

In the afternoon, MISC member, Gail Whiteman, will lead a discussion on ways to enhance tribal engagement. Other agenda items include briefings on the status of feral hogs encroaching Montana's northern border and a review of the draft standard operating procedures for the Aquatic Invasive Species Grant Program.

MISC is a statewide partnership working to protect Montana's economy, natural resources and public health through a coordinated approach to combat invasive species. All MISC meetings are open to the public. For more information, contact Stephanie Hester, MISC Coordinator at 406-444-0547. Visit misc.mt.gov for more information.

A copy of the MISC meeting agenda for August 21 is attached to this e-mail.



Hosted by the Montana Department of Natural Resources and Conservation
Director's Office: (406) 444-2074



MONTANA INVASIVE SPECIES COUNCIL

Montana State Capitol, Room 172
1301 East Sixth Avenue
Helena



AGENDA

WEDNESDAY, August 21, 2019

- | | |
|-------------------------|--|
| 10:00 a.m. – 10:10 a.m. | WELCOME AND INTRODUCTIONS
Bryce Christiaens |
| 10:10 a.m. – 11:10 a.m. | ADMINISTRATIVE BUSINESS
Roll call and confirm quorum
Action Item: May 23 meeting minutes
Action: Budget FY19 allocations
2019-2020 workplan and events |
| 11:10 a.m. – 12:00 p.m. | MISC PROJECT UPDATES
Mogulones crucifers Science Advisory Panel update
Eastern heath snail stakeholder discussion – Sept. 24
Invasive Species Listing and Act committees updates
Conservation District AIS funding update
Be a Smart Ash campaign |
| 12:00 p.m. – 1:00 p.m. | BREAK FOR LUNCH |
| 1:00 p.m. – 1:30 p.m. | TRIBAL ENGAGEMENT
Enhancing tribal engagement in invasive species (Gail Whiteman) |
| 1:30 p.m. – 2:30 p.m. | FERAL HOGS
National Feral Swine Program (USDA-APHIS, John Steuber)
Update on current situation (Dept. of Livestock, Dr. Szymanski)
Squeal on Pigs campaign launch
Wild Pig Symposium and outcomes (Steve Wanderaas)
EDRR (Bill Sparklin)
PNWER-Transboundary workgroup status
Discussion
Action: next steps |
| 2:30 p.m. – 3:00 p.m. | AQUATIC INVASIVE SPECIES GRANT PROGRAM
Review and discussion of draft standard operating procedures
Call for advisory committee members
Action: next steps |
| 3:00 p.m. – 3:30 p.m. | MISC COMMITTEES
Committee updates
Discussion about future of committees
Action: next steps |
| 3:30 p.m. – 4:00 p.m. | WRAP-UP AND ADJOURN
Agency and partner updates
Public comment |

Agenda is subject to change and item times are approximate. Actual times may vary by up to one hour. Visit <http://dnrc.mt.gov/public-interest/meetings-and-events> for the most updated meeting information. The Montana Department of Natural Resources and Conservation will make reasonable accommodations for persons with disabilities who wish to participate in this public meeting. For questions about accessibility or to request accommodations, please contact Stephanie Hester at 406-444-0547 or shester@mt.gov as soon as possible before the meeting date.

MEETING MINUTES

Meeting/ Project Name:		Montana Invasive Species Council	
Date of Meeting:	May 23, 2019	Time:	1 pm - 3 pm
Minutes Prepared By:	Stephanie Hester	Location:	DNRC Headquarters, C.M. Russell
1. Attendees			
<p>MISC Voting Members: Bryce Christiaens (Missoula County Weed District – Chair), Amy Gannon (DNRC), Bob Cloninger (MDT), Leigh Greenwood (TNC), Tom Woolf (FWP), Steve Wanderaas (CDs), Kim Mangold (MDA), Jan Stoddard (Dept. of Commerce), Jane Mangold (MSU-Ext.), Alec Underwood (Wildlife), David Brooks (Fishing)</p> <p>MISC Federal Partners: Gary Adams (USDA APHIS), Michelle Cox (USFS), Monica Pokorny (NRCS)</p> <p>Other Attendees: Dave Burch (MDA), Stephanie Hester (DNRC, MISC Coordinator), Patrick Plantenberg (ISA Rocky Mountain Chapter), Celestine Duncan, Liz Lodman (FWP)</p>			
2. Agenda and Notes, Decisions, Issues			
Topic	Discussion		
Welcome & Introductions Bryce Christiaens	<p>Chair Bryce Christiaens called the meeting to order at 1:05 p.m.</p> <ul style="list-style-type: none"> • Round robin introductions and roll call • Quorum confirmed <p>(Action items are in red)</p> <p>Bryce thanked everyone for taking the time to participate in this off-cycle meeting during such a busy time of year.</p>		
Administrative Business Bryce Christiaens and Stephanie Hester	<p>April 10, 2019 Meeting minutes for approval</p> <p>Motion: Steve Wanderaas motioned to adopt the meeting minutes. Alec Underwood seconded.</p> <p>Discussion: Edit status of second action item to in progress. Meeting was held to further discuss a plan for applying for a permit for interstate movement of Diorhabda.</p> <p>Vote: All in favor, motion passes.</p>		
Aquatic Invasive Species Local Capacity Funding Mark Bostrom Tom Woolf Steve Wanderaas	<p>Mark Bostrom provided an overview</p> <ul style="list-style-type: none"> • DNRC Conservation and Resource Development Division had excess state special revenue authority for the AIS account in the 2017 biennium • Used excess authority to execute contract with McCone CD to coordinate local support to assist FWP with inspection stations • Tom and Steve toured eastern Montana to identify priority sites for watercraft inspection stations and visit with conservation districts about their interest in operating them. • Great opportunity to build capacity with CDs and tap into local knowledge and resources <ul style="list-style-type: none"> ◦ FWP had a contract with Garfield CD last season to operate Flowing Wells station. Was very successful and ran smoothly. No staff turnover • FWP has ceiling on what they can pay inspectors and staffing has always been a problem. Districts don't have the same pay limitations. As well, districts are better in tune with local workforce. FWP has always had difficulties hiring and retaining watercraft inspection staff • Will this help with enforcement capacity? 		

	<ul style="list-style-type: none"> ○ Yes. Will be able to use funds to contract with local law enforcement • Not sure if this will be a one-time-only opportunity but would like to institutionalize effort • How does this benefit CDs? <ul style="list-style-type: none"> ○ CDs testified at legislature on how AIS prevention promotes conservation ○ Helps them build conservation programs and capacity ○ They receive 10% administration, which goes a long way ○ CDs have genuine concern for resource and that's why they are engaged • Funding is intended to fill gaps in strategic locations to implement the statewide perimeter defense strategy and build local capacity • MISC identified as organization to help coordinate and prioritize projects • Is there interest in MISC being a project partner? <ul style="list-style-type: none"> ○ Needs to be coordinated with state program ○ Since Tom (program lead) and Steve are MISC members, seems like a natural fit for MISC involvement ○ MISC can be bridge in helping to improve AIS program since its purpose is to be a coordinating body for invasive species issues • Tom provided an overview of some of the identified priorities <ul style="list-style-type: none"> ○ Expand operation season and hours for stations at Nashua and Flowing Wells ○ Make the Wibaux station fully functional. This has been the most difficult station to find staffing for and provide oversight (FWP manager is located in Billings). ○ Powder River CD interested in a station in Broadus, which would plug a big hole in southeastern Montana perimeter defense ○ Big Horn CD interested in opening a new station around St. Xavier ○ Assistance with Dillon station • All of these priorities have been previously identified by stakeholders across the state • Tom would like to establish an advisory group for AIS statewide. This would be an opportunity to start developing this group. <p>Motion: David Brooks motioned to form an AIS advisory committee under MISC that would work collaboratively with FWP and CDs on this project and prioritize projects. Jane Mangold seconded.</p> <p>Discussion: Mark clarified that the contract is between McCone CD and DNRC. Technical lead is Tom Woolf, contract manager is Stephanie Hester. Any ad hoc committee would work with all these entities.</p> <p>Vote: All in favor, motion passes.</p>
<p>AIS Grant Program</p> <p>Mark Bostrom</p>	<p>Mark Bostrom provided an overview of changes to the funding source for the AIS grant program.</p> <ul style="list-style-type: none"> • Funding through HB 411 changes the way AIS grants are delivered and managed. • Previously AIS grants were housed within the Reclamation and Development Grants (RDG) program as a crucial state needs • Funding has been allocated at \$500,000 per biennium for the last several sessions • In the 2019 session, AIS grant funding was removed from RDG and now resides in title 80-7-1017, which is the invasive species grant account established in the 2017 legislature. Title 80-7-1018 provides rule-making authority. • Through HB 411 this past session, \$278,000 per year was allocated to the AIS grant fund in title 80. • In statue MISC is identified as an organization to provide input into funding decisions. Specifically, "(5) If the governor appoints an advisory council on invasive species, the department of natural resources and conservation shall consider recommendations by the advisory council for awards made under this section." • Non-profits are now eligible to apply for funding. Under RDG, only governmental entities were eligible.

	<ul style="list-style-type: none"> • Program can be patterned after the Noxious Weed Trust Fund Grant Program to create consistency for applicants. • Need to identify a clear set of priorities for applicants and for the Council to rank grants. • Great opportunity to improve on Noxious Weed Trust Fund model • Grants are for any project along the invasion curve including research <p>Motion: David Brooks amended his previous motion so that the new advisory group established to set priorities for CD AIS capacity funding will also determine next steps for redesigning and rulemaking for the new AIS grant program and that Tom Woolf will serve as Chair. Jane Mangold seconded.</p> <p>Discussion: Discussion included amending first motion to create one advisory council to work on project prioritization for AIS CD capacity funding and next steps for building the new AIS grant program.</p> <p>Vote: All in favor, motion passes</p>
<p>Be a Smart Ash campaign and outreach event</p> <p>Stephanie Hester</p>	<ul style="list-style-type: none"> • The Tree Pest Committee met in April. One of the outcomes of the meeting was a recommendation that MISC adopt the Be A Smart Ash campaign and provide resources for outreach about emerald ash borer prevention and preparedness. There are several upcoming events that target key stakeholders including the Northern Rockies Tree School 2019 Conference, October 7-9, Bozeman • The campaign creators (cities of Denver and Boulder) will provide campaign materials gratis for Montana customization • Could use Windfall contract to do the customization and web work. • Leigh Greenwood and Laurie Kerzicnik have offered to help work on content. Amy Gannon said she would also help if project proceeds. • Patrick Plantenberg suggested that MISC add an urban forestry representative. Amy represents DNRC and by extension coordinates with Jamie Kirby <p>Discussion:</p> <ul style="list-style-type: none"> • Has there been an evaluation of public response to campaign and its impact? <ul style="list-style-type: none"> ◦ Get metrics for behavior change ◦ Discuss with urban foresters first to get their input since they are target audience. Montana Urban and Community Forestry Assn (MUCFA) meeting in June. Patrick and Amy to coordinate a discussion with urban foresters at MUCFA meeting or other venue. ◦ Add to July agenda for MISC action • Would this be served better as a regional campaign vs. state, e.g. Don't Move Firewood <ul style="list-style-type: none"> • Stephanie to discuss with other state invasive species council coordinators
<p>Wrap-up</p> <p>Public Comment</p> <p>Adjourn</p>	<p>Agency and partners updates</p> <ul style="list-style-type: none"> • Mark provided an overview of MISC budget for 2021 <ul style="list-style-type: none"> ◦ Personal services for MISC and UC3 - \$165k/yr. ◦ Operations for MISC - \$50k/yr. (was \$45k in 2019 biennium) ◦ UC3-\$40k/yr. ◦ AIS Grant \$278k/yr. ◦ Add budget discussion to July meeting agenda to allocate MISC budget • Membership <ul style="list-style-type: none"> ◦ Most member terms begin and end at the same time. According to statute, member terms are to be staggered. Governor's office plans to appoint half of the members for another 4-year term so membership is staggered. • Science Advisory Panel on <i>Mogulones crucifer</i> <ul style="list-style-type: none"> ◦ Panel workshop took place April 30-May 1, 2019

	<ul style="list-style-type: none"> ○ Working on final recommendations and workshop notes ○ Draft recommendations include: <ul style="list-style-type: none"> ▪ Petition weevil for biological control agent of houndstongue ▪ Develop protocol and system for assessing non-target impacts ▪ Need mitigation strategies in place since non-target species include threatened and endangered species • Coordinator updates <ul style="list-style-type: none"> ○ Stephanie was on a panel with other state invasive species coordinators at the Western Plant Board Meeting last week. Discussion centered around the need for a coordinating body to support state councils. The Western Governors' Association has suggested filling this role through their invasive species initiative ○ At the June 4 executive committee meeting, MISC's work plan will be discussed ○ Due to a lack of interest/people's availability the Ft. Belknap tour and tribal forum meeting will not be scheduled this summer. It was suggested that the fall might be a better time to schedule since many people are in the field during the summer. • Dave Burch's last day is tomorrow. Congrats! • Noxious Weed Trust Fund grant coordinator position is open • Cara Riwai-Couch will be taking over as the Bureau of Reclamation representative on MISC. She will join us at our July meeting. • Bob Cloninger—Mike Miller's job as noxious weed coordination for Dept. of Transportation has not been posted. Bob will continue to serve on MISC until the position is filled. Position may open in July. • Roadside reclamation position—hoping to fill in July • MSU Ext. interviewing for wildlife specialist first week of June. Depending on the successful candidate's background and experience, this new hire to be a resource to MISC <p>Public comment</p> <ul style="list-style-type: none"> • none <p>Motion: Steve Wanderaas motioned to adjourn meeting at 2:40 pm. Kim Mangold seconded.</p> <p>Discussion: N/A</p> <p>Vote: All in favor, motion passes.</p>

3. Action Items				
Action		Assigned	Due Date	Status
1	Check with Be A Smart Ash Campaign to see if they've evaluated impacts of the campaign and if it fostered behavior change	Stephanie Hester	7/1/19	No response
2	Reach out to urban foresters and get input about adopting the campaign	Amy/Patrick	6/1/19	Done
3	Stephanie to reach out to other state invasive species coordinators about interest in making this a regional campaign	Stephanie	7/1/19	Done
3	Add Be A Smart Ash action item to July's agenda	Stephanie Hester	4/20/19	Done
4	Add MISC budget discussion and allocation to July's agenda	Stephanie Hester	7/1/19	Done

Montana Invasive Species Council Budget—2019 Biennium

	MISC Approved	MISC Actuals	REMAINING
Appropriation/Award	\$95,000		
Council member travel	\$20,000	\$19,201	\$799
		0	0
Law Review, Summit, Listening Sessions	\$32,000	\$27,088	\$4,912
Science Advisory Panel (2 panels)*	\$20,000	\$13,190	\$6,810
E&O*	\$23,000	\$31,338	-\$8,338
Regional tabletop exercise	\$0	0	\$0
Unallocated	\$0	0	\$0
	\$95,000	\$90,817**	\$4,183

*eDNA panel \$ 7,907
Mogulones crucifer \$ 5,283
 \$13,190

**Remaining balance accrued-Windfall contract

57060 Dept Nat Resource/Conservation Expenditure Summary by Org, Account

Data Selected for Month/FY: 01 (Jul)/2017 through 12 (Jun)/2019

Amount				Fiscal Year		
Org	Acct Lvl 1	Acct Lvl 2	Account	2018	2019	Grand Total
3448 AIS COUNCIL-HB622				15,803.97	75,013.68	90,817.65
		62000 Operating Expenses		15,803.97	75,013.68	90,817.65
		62100 Other Services		6,018.89	34,694.55	40,713.44
			62102 Consult & Prof Services	5,128.89	350.00	5,478.89
			62121 Abandoned Mine Reclamation	0.00		0.00
			62136 IT Consult & Prof Services		33,417.69	33,417.69
			62190 Printing/Pub & Graphics		252.41	252.41
			62191 Printing/Other Provider	890.00	674.45	1,564.45
			62192 Graphic Arts Services	0.00		0.00
		62200 Supplies & Materials		526.91	1,158.58	1,685.49
			62205 Food	252.34	568.88	821.22
			62216 Gasoline		9.75	9.75
			62224 Maps Charts & Pamphlets	0.00		0.00
			62225 Books & Reference Materials	230.02		230.02
			62240 Inspection-Field Equip/Supp	6.57		6.57
			62241 Office Sup/Minor Equip-NonStat	37.98	100.45	138.43
			62262 Catered/Prepared Meals		479.50	479.50
		62300 Communications		76.50	5,123.60	5,200.10
			62304 Postage & Mailing	76.50		76.50
			62311 Ads-Radio - Non Recruiting		523.60	523.60
			62315 Ads-Newspaper - No Recruiting		4,600.00	4,600.00
		62400 Travel		8,504.65	15,448.16	23,952.81
			62407 In-State Meals		220.85	220.85
			62408 In-State Lodging		1,970.47	1,970.47
			62410 In-State Meals Overnight	34.00		34.00
			62412 Out-Of-State Commercial Trans	0.00	170.60	170.60
			62415 Out-Of-State Other	50.00		50.00
			62418 Out-Of-State Lodging	0.00		0.00
			62424 Special Fees	34.88		34.88
			62432 In-State Comm Trans-Training		511.60	511.60
			62435 In-State Other-Training		59.09	59.09
			62440 In-State Meals Overnite-Trng	30.00		30.00
			62443 Out-Of-State Com Trans-Trng		455.20	455.20
			62446 Out-Of-State Other-Training		15.00	15.00
			62485 NonEmployOutStateCommerc/Trans	1,524.20	1,462.71	2,986.91
			62489 Non-Employee In State Mileage	4,735.06	5,438.55	10,173.61
			62490 Non-Employee In State Meals	522.00	811.00	1,333.00
			62491 Non-Employee Out State Mileage		56.63	56.63
			62492 Non-Employee Out State Meals	0.00	491.00	491.00
			62493 Non-Employee Out State Lodging	0.00	254.38	254.38
			62495 Non-Employee Travel - Meals	161.00		161.00
			62497 Non-Employee In-State Lodging	1,413.51	3,531.08	4,944.59
		62500 Rent			200.00	200.00
			62516 Meeting Rooms		200.00	200.00
		62800 Other Expenses		677.02	18,388.79	19,065.81
			62809 Education/Training Costs		179.00	179.00
			62817 Meetings/Conference Costs	677.02	17,684.79	18,361.81
			62853A Trade Show Expense		525.00	525.00
Grand Total				15,803.97	75,013.68	90,817.65

MISC BIENNIAL APPROPRIATIONS

2017 BIENNIUM

- MISC was supported by a .5 FTE (HB2 CARRD budget)
- MISC raised \$120,000 in funding (mostly from partners) to support 3 objectives: invasive species assessment, Summit to vet findings, Invasive Species Framework

2019 BIENNIUM

- MISC was authorized another .5 FTE (SSR) to make full-time MISC coordinator
- \$95,000 for operating costs (SSR)
 - Member travel
 - Based on average meeting cost of \$1,500/meeting
 - Includes travel for summit and related MISC events
 - Includes meeting supplies

\$20,000
 - Invasive Species Law Review, Summit and Listening Sessions
 - Contracted services (analysis, report)
 - Materials/printing/supplies
 - Listening session travel, room rental
 - Summit (average based on 2016 and 2018 costs*)

\$ 6,000
\$ 8,000
\$ 3,000
\$17,000
\$34,000
 - Science Advisory Panel—cost per panel
 - Panelist time @ \$90/hr x 10 hrs x 4 panelist
 - Panelist travel/per diem at \$1,000 per panelist
 - Workshop room rental, supplies & materials

\$ 3,600
\$ 4,000
\$ 2,000
\$9,600 x 2
 - Invasive Species E&O
 - Invasivespecies.mt.gov develop/design
 - Materials, supplies, printing

\$12,000
\$ 3,000
\$15,000

2021 BIENNIUM (CURRENT)

- MISC was authorized 1 FTE (HB2 CARRD budget)
- \$50,000 for FY 2020 and FY 2021 (\$5,000 increase from 2019 biennium)
- \$278,580 for FY 2020 and FY 2021

MISC Budget – 2021 Biennium

	2019 Biennium Remaining	FY 2020	FY 2021	TOTALS
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MISC Appropriation

\$50,000 \$50,000

Council member travel		\$10,000	\$10,000	\$20,000
2020 Summit (Fall 2020)				-
Science Advisory Panel (2 panels)		\$7,000	\$10,000	\$17,000
E&O	\$14,453*	\$10,000	\$10,000	\$20,000
TOTAL		\$23,000	\$20,000	\$27,500
		\$50,000	\$50,000	\$100,000

*Remaining balance in Windfall contract

DNRC AIS Grant Program Appropriation

\$278,580 \$278,580

Funds to award		\$250,722	\$250,722	
DNRC 10% admin.		\$27,858	\$27,585	
TOTAL		\$278,580	\$278,580	\$557,160

MISC Projects

6/14/2019

Coordination	Title	Current	Total	% Complete
C1	Evaluate the need for a comprehensive MT Invasive Species Act--Act Committee	2	12	17%
C3	AIS Grant Program--survey previous applicants and stakeholders, identify advisory committee, develop program policies and protocols, develop application using webgrants	3	12	25%
C4	Facilitate science and policy forums on invasive species issues. Eastern Heath Snail Science Advisory Panel, Release M. crucifer recommendations	8	12	67%
C5	Develop AIS grant program pages on invasivespecies.mt.gov	2	12	17%
C6	Develop invasive tree resource page on invasivespecies.mt.gov	2	12	17%
C7	Co-host 2020 NAISMA conference	1	12	8%
C8	Assist with National Plant Board meeting-August 2019	6	12	50%
C9	Host 2020 Invasive Species Summit	0	12	0%
subtotal		24	96	25%
Prevention		Current	Total	% Complete
P1	Develop and launch Squeal on Pigs campaign with Dept. of Livestock	7	12	58%
P2	Work with MNWEC and FWP on revision of K-6 Inasive Species Packet	5	12	42%
P3	Coordinate new CDD educational signage	10	12	83%
P4	Co-host 2019 AIS Natural Resource Educator Trainings	12	12	100%
P5	Provide oversight for CD capacity building for AIS watercraft inspection stations and prevention efforts	6	12	50%
P6	EAB outreach for prevention and preparedness-Be a Smart Ash	4	12	33%
subtotal		44	72	61%
EDDRR		Current	Total	% Complete
E1	List Committee	2	12	17%
E2	Coordinate with Heritage Program on data management	6	12	50%
subtotal		2	12	17%
Control		Current	Total	% Complete
X1	Support Diorhabda petition	9	12	75%
subtotal		9	12	75%
TOTAL		79	192	41%

MISC Management

	Task Description
M1	MISC budget management, council member travel reimbursements
M2	Provide current invasive species information and best practices to the public via the council's website, bulletin, DNRC Facebook page, and at outreach events. (see next tab)
M3	Reporting--EQC, annual report, etc.
M4	Maintain council membership positions, recruit new members
M5	Meeting coordination, public noticing, note taking
M6	Provide regular internal communications and updates to council members and partners
M7	Coordination with DNRC Director and Governor's Office
M8	Develop and distribute press releases re: council activities and news
M9	Strengthen communication between agencies, tribes, cities, counties, universities, and other regional organizations to share information on new introductions and new pathways for introduction.
M10	Tribal engagement on invasive species issues. Develop tribal partnerships, projects, etc.
M11	Participate in state and national-level initiatives, e.g. WGA Biosecurity Initiative
M12	Work to align state and federal regulatory processes to facilitate rapid response to newly discovered invasive species.
M13	Support the development of rapid response plans and regional rapid-response efforts by providing gap analysis and technical support.
M14	Coordinate invasive species data management efforts
M15	Support research to make new control tools available and improve the efficacy and specificity of existing tools, e.g. hosting science advisory panels
M16	Update established outreach materials and develop and provide new outreach materials and tools to stakeholder groups.
M17	Participate in invasive species outreach events, NISAW, PCG Awareness Week, etc.
M18	Promote invasive species campaigns, Don't Let it Loose, Don't Move Firewood, etc.
M19	Partner with organizations on events and forums, e.g. NAISMA, National Plant Board
M20	Participate in meetings and on working groups, e.g. WNS working group, rare plant strategy
M21	Advance regional communication, coordination, and outreach initiatives, e.g. participation on regional invasive species coordinator calls. Continue to coordinate with regional partners on outreach to Congress about the impacts of invasive species and the need for federal support for state invasive species management and prevention efforts. Serve on WeISC
M22	Identify and develop legislative champions
M23	DNRC duties, e.g. PIC Committee, reporting, trainings

Events

Date	Event	Location	MISC Representative	Cost	Comments
7/3/2019	Governor visit to Ravalli watercraft inspection station	Ravalli	Stephanie		
7/18/2019	Noxious Weed Trust Fund Advisory Council Meeting	Great Falls	Stephanie		
7/26/2019	River Rendezvous	Ft. Peck	Stephanie/Steve W.		
7/12/2019-7/16/2019	National Plant Board Meeting	Kalispell	Tom, Lori Curtis		
9/3/19-9/5/2019	Montana Range Tour	Harlowton			
9/11/2019-9/13/2019	Missouri Headwaters Watershed Tour-MWCC	Missouri Watershed		\$75	
9/24/2019-9/26/2019	Roundtable on the Crown of the Continent	Polson			
9/22/2019-9/26/2019	MT Assn of Counties Annual Conference	Great Falls		\$165	
9/30/2019-10/3/2019	North American Invasive Species Management Assn	Saratoga Springs, NY	Bryce, Kate		
10/4/2019-10/6/2019	2019 Young Ag Leadership Conference	Butte			
10/7/29-10/9/19	Northern Rockies Tree School	Bozeman		\$250	
10/9/2019-10/11/2019	Western Regional Panel	Missoula	Tom, Kate		
10/17/2019-10/18/2019	MT Educator Conference	Belgrade		\$700	
10/25/2019-10/26/2019	Montana Farmers Union State Convention	Great Falls		\$75	
11/18/2019-11/22/2019	MACD 2019 Convention		Steve W.		
12/3/2019-12/5/2019	Montana Grain Growers Assn Convention	Great Falls		\$100	
12/9/2019-12/11/2019	Innovations in Invasive Species Management	Coeur d'Alene	Bryce, Stephanie		
12/10/2019-12/12/2019	Montana Stockgrowers Association	Billings	Bryce	\$300	
1/8/2020-1/9/2020	MT Green Expo--Nursery & Landscape Assn	Billings		\$567	
1/14/20-1/16/20	Montana Weed Control Association	Great Falls	Bryce	\$245	
1/16/2020-1/19/2020	MAGIE20--MT Ag Industrial Exhibit	Great Falls			
1/22/2020-1/24/2020	Assn. of MT Turf and Ornamental Pest Professionals	Fairmont			
2/20/2020-2/22/2020	MATE	Billings		\$600	
March	Montana Environmental Education Association	Chico Hot Springs			
7/19/20-7/23/20	PNWER	Big Sky	Stephanie, Kate		
10/14/2020-10/16/2020	2020 Watershed Symposium	Butte	Kate		
	NAISMA 2020	Whitefish	All		

Attachment A:
Detailed Work Plan and Budget
RD-MCD-588
\$500,000

DNRC has entered into a contract with McCone Conservation District to augment and support the state's AIS prevention program implemented through FWP. The contract, valued at \$500,000, will be primarily used to help address gaps in the AIS perimeter defense strategy that have been identified by FWP in eastern and central Montana. While the primary focus of the contract is to support prevention efforts in the central and eastern districts, funding may be made available for AIS projects in other areas.

The intent of this funding is to build local capacity and participation through Conservation Districts and other local organizations to enhance the capacity to support AIS prevention efforts at high priority locations. Prevention efforts will be coordinated by FWP and will follow FWP protocols.

The primary contacts and roles for this contract are: Fiscal Manager, Stephanie Hester (DNRC); Technical Manager, Tom Woolf (FWP); and CD Sponsor, Steve Wanderaas (McCone CD).

The work plan below further details the scope of work for the contract between DNRC and McCone Conservation District. Conservation Districts Bureau staff will provide legal and administrative support to participating conservation districts.

Overall Budget:

Task 1: Wibaux Station	\$128,020
Task 2: Broadus Station	\$55,000
Task 3: St. Xavier Station	\$31,237
Task 4: Nashua Station—extended hours	\$25,000
Task 5: Dillon	\$0
Task 6: Flowing Wells Station & Coordination	\$46,500
Task 7: Station equip/supply—gravel, tablets, decon units., McCone administration	\$64,080
TOTAL	\$349,837.00

Detailed Budget and Scope of Work:

Task 1: Wibaux Inspection Station I-90 westbound

Garfield Conservation District will use its expertise in managing the Flowing Wells station to manage the Wibaux station and manage payroll for the Wibaux station. This station is currently being operated by MT Fish, Wildlife & Parks. The station location has already been secured by FWP and equipment has been purchased. The station opened 4/16/19. Garfield CD plans to take over operations on July 15 and close the station November 31, 2019 and operate as close to daylight hours as possible, 7 days/week. The goal is to eventually add night operations at this station as staffing and logistics allow.

Budget: \$127,820

July 15-November 31

6 am-10 pm daily

Personnel expenses	\$75,000
Site supervision-40 hrs/wk.	\$14,600
Power for station—getting quote	\$0
Camp trailer for staff—Dusty requested this	\$0
Supplies	\$500
Project Lead-100 hrs. wages w/ liabilities, leave & travel	\$3,000
Training	\$2,500
Mileage—employees	\$20,800
Tablets for data collection*	\$0
Administration	\$11,620
	\$128,020.00

*Provided by McCone CD. If needed, Include cost in station overall budget. Tablet: \$258

Task 2: Broadus inspection station Hwy 212

The Powder River Conservation District has agreed to manage a new station at Broadus. This is a new station and has been a gap in the perimeter defense strategy. Training will take place July 9. The station will be open from July 10-September 30, 2019, and operate 8 a.m.-5 p.m., Wednesday, Thursday and Friday. Station employees will work 13 hours/day, from 6 a.m.-6 p.m. plus set-up, tear down.

Budget: \$55,000

June 20-September 30

6 to 6 pm (12 hrs./day), Thursday-Sunday

Item	PRCD Expenses	Task 7 Expenses
Personnel expenses	\$45,000	0
Rent	\$5,000	0
Decontamination unit	\$0*	\$2,465
Gravel	\$0*	\$3,888
Supplies	\$0	\$826
Tablets for data collection	\$0	\$258
Administration	\$5,000	0
Total	\$55,000.00	\$7,437.00
Total Station Cost		\$62,437.00

*Provided by McCone CD. Include cost in station overall budget.

Powder River Taxidermy to supply:

- Shelter and table for employees
- WiFi
- Storage shed
- Water supply
- Bathroom

FWP to supply:

- Training
- Signage

Garfield CD to provide:

- Technical assistance
- Dinger

Hourly wages

- \$12/hr. taxidermy employees
- \$18/hr. regular employees

Payroll

- PRCD will contract with a local firm

McCone CD

- Decontamination unit
- Tablets for data collection
- Ground leveling and gravel

Task 3: St. Xavier inspection station Hwy 313

The Big Horn Conservation District will establish a station near St Xavier to inspect boats traveling in multiple directions in the Big Horn Canyon reservoir corridor. Training will take place on July 17 and the station will open on July 18. The station will operate 3 days/week from 6 am to 6 pm.

Budget: \$55,000

July 18-October 26, 2019

6 am-6 pm (13/hrs. per day), Wednesday-Friday

Item	Big Horn Expenses	Task 6 Expenses
Personnel expenses	\$24,000	
Decontamination unit*	\$0	\$2,465
Station site rent	\$2,000	
Supplies	\$500	
Travel for Maria	\$350	
Tablets for data collection*	\$0	\$258
Training	\$1,300	
Administration-10%	\$3,087	
Total Big Horn CD	\$31,237.00	
Total Station Cost		\$33,960

*Provided by McCone CD. Tablet: \$258, Decon. unit: \$2,465

Garrison Stoker Resort to supply:

- Shelter for employees
- WiFi
- Water supply

Big Horn Conservation District to supply:

- Shed

Garfield CD to supply:

- Technical assistance

FWP to supply:

- Training
- Signage

McCone CD to supply:

- Decontamination unit
- Data collection supplies

Hourly wage

- \$18/hr. for regular employees

Task 4: Nashua inspection station Hwy 2

McCone Conservation District opened the Nashua station on 5/18/19 and with these funds will extend station hours from 12 to 16 hours per day beginning 6/29/19. The station will operate until September 25 unless McCone CD is able to find non-college employees to continue operations through October 15.

Budget: \$25,000

Extended hours beginning June 29, 2019

5:30-9 pm daily vs. 7 am-7 pm

Item	McCone CD Expenses	Task 7 Expenses
Personnel expenses @ \$15.25/hr.	\$23,500	
Mileage	\$1,200	
Supplies	\$300	
Gravel*	\$0	\$1,750
Tablets for data collection*	\$0	
Total McCone Expenses	\$25,000.00	
Total Station Budget		\$26,750.00

*Provided by McCone CD, Task 7. Include cost in station overall budget.

Task 5: Dillon inspection station I-15 northbound

McCone Conservation District is working with the Beaverhead Conservation District on taking over the Dillon station. The site will need minimal improvements since it's been operated by FWP for several years.

Task 6: Flowing wells station Hwy 200—extended hours

Garfield CD will expand hours of operation at the flowing wells station from 12 hours to 13 hours/day and 16 hours/day on Thursday through Saturday. This increase will not cause a substantial increase in supervisory time. Garfield CD pays mileage due to its remote location.

This budget also includes costs for Garfield CD to provide assistance and coordination to other stations in the eastern part of the state. The payroll is calculated based on 20 hours a week for 20 weeks, which will carry us through to the end of October. Mileage was based on two trips a month to other stations. These are rounded numbers as projecting the assistance required is an estimate at this point.

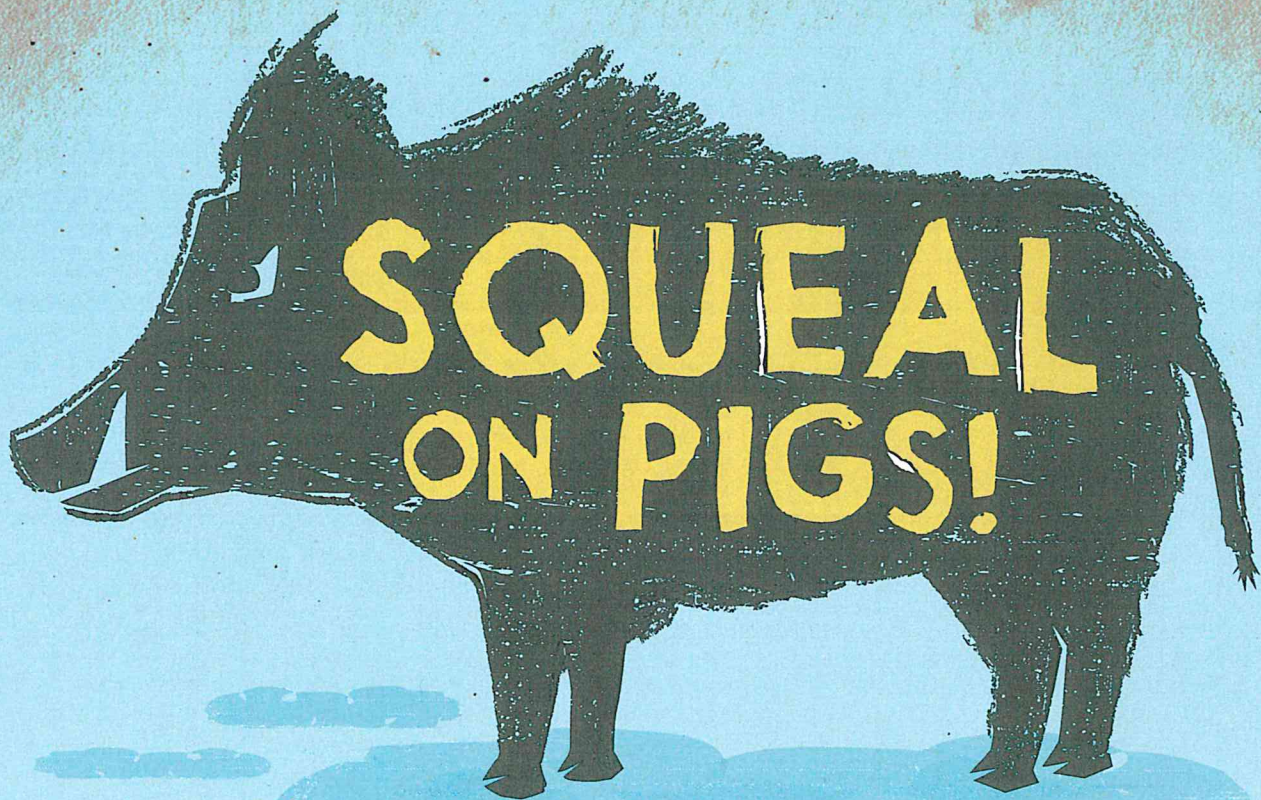
Budget: \$46,500

Extended hours

Personnel expenses-F. Well	\$16,000
Supervisory	\$0
Supplies	\$0
Mileage	\$14,000
Training	\$0
Administration	\$3,000
Total Flowing Wells	\$33,000.00
Other station coordination	\$9,000
Travel to assist other stations	\$2,500
Administration	\$2,000
Total Garfield Coordination	\$13,500.00
GRAND TOTAL GARFIELD CD	\$46,500

Task 7: On hand equipment purchased by McCone CD to be distributed to stations:

Tablet for data collection @\$258/unit	\$2,580
Decontamination units for Broadus, Ft. Smith @\$3,000	\$6,000
Gravel for Broadus, Nashua	\$5,000
Diane Time and Travel	\$500
Administration	\$50,000
Total	\$64,080.00



FERAL PIGS IMPACT:



WATER

Digging causes erosion.



FISH

Trampling damages our waterways where fish and salamanders live.



BIRDS

Ground nesting bird habitats are destroyed.



CROPS

Rooting damages farmland.



LIVESTOCK

Carry diseases that can spread to cattle and domestic pigs.



ENVIRONMENT

Habitats are diminished in their quality and quantity.



IF YOU THINK YOU SEE A FERAL PIG CALL:

406-444-2976

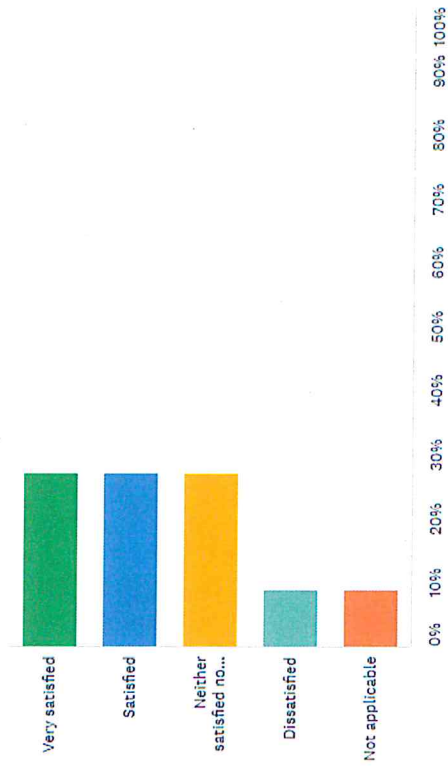


PROTECT MONTANA FROM FERAL PIGS

Montana Aquatic Invasive
Species Grant Program Grantee
Satisfaction and Program
Improvement Survey

Overall, how would you rate your experience with the AIS Grant Program?

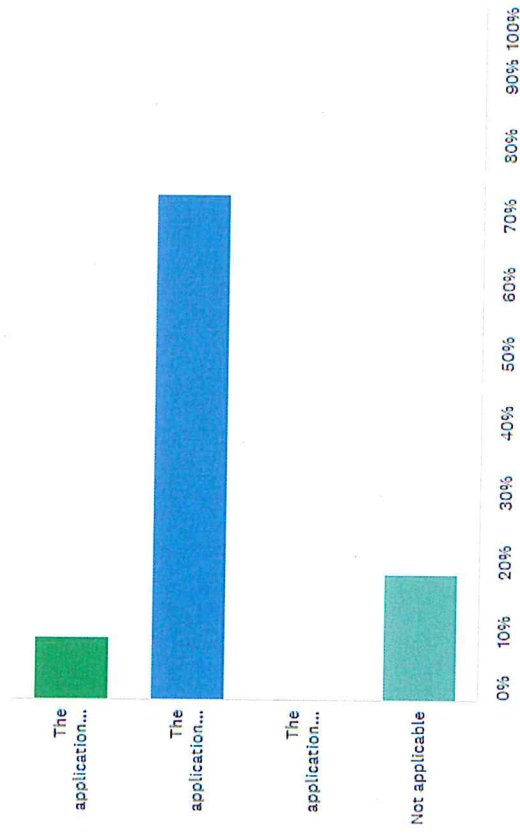
Answered: 11 Skipped: 0



ANSWER CHOICES		RESPONSES	
▼	Very satisfied	27.27%	3
▼	Satisfied	27.27%	3
▼	Neither satisfied nor dissatisfied	27.27%	3
▼	Dissatisfied	9.09%	1
▼	Not applicable	9.09%	1
TOTAL			11

The AIS grant program allowed 6-8 weeks from announcement of funding availability to the submittal of an application. How would you describe the amount of time available to apply?

Answered: 11 Skipped: 0

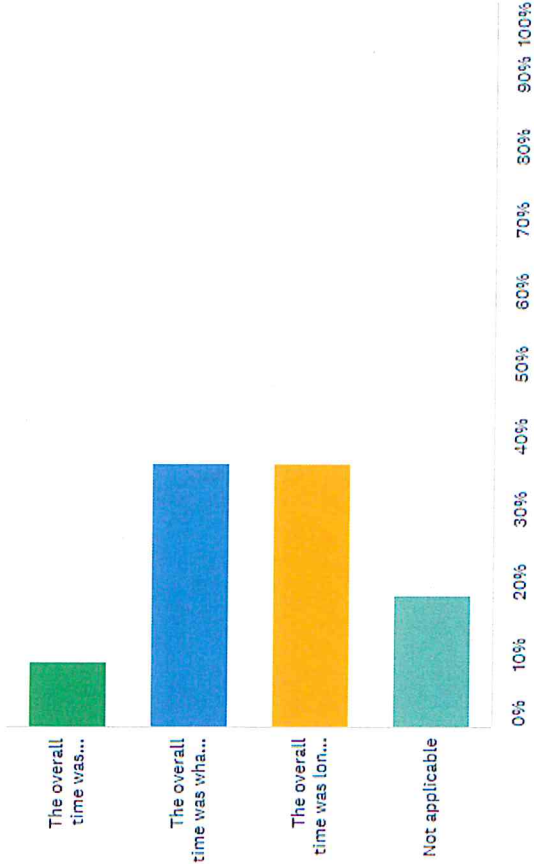


ANSWER CHOICES

▼ The application timeline was too short	▼ RESPONSES	1
▼ The application timeline was just right	72.73%	8
▼ The application timeline was too long	0.00%	0
▼ Not applicable	18.18%	2
TOTAL		11

After the application submittal date, it took approximately 4-6 weeks to receive notice of award. How would you describe the amount of time for award notice?

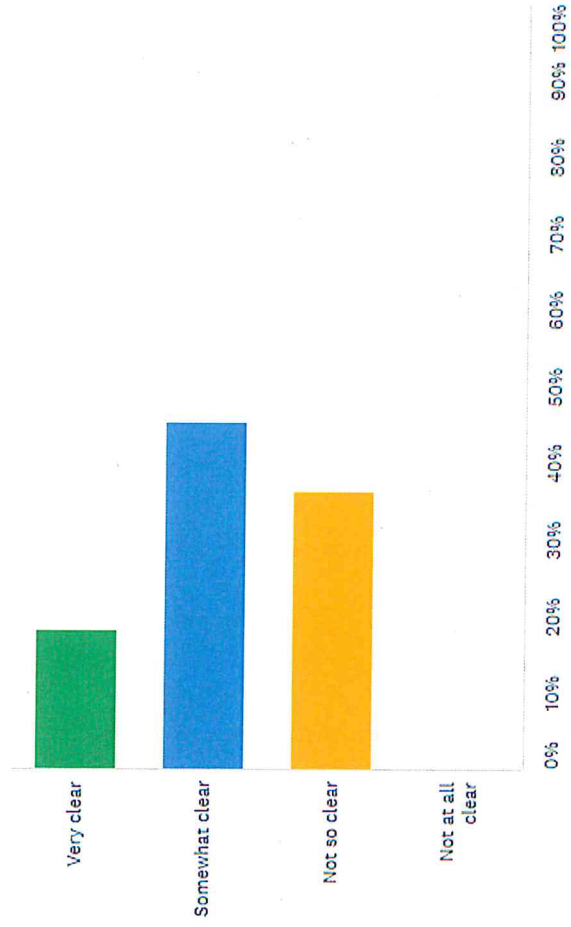
Answered: 11 Skipped: 0



ANSWER CHOICES		RESPONSES
▼ The overall time was shorter than expected	1	9.09%
▼ The overall time was what about I expected	4	36.36%
▼ The overall time was longer than expected	4	36.36%
▼ Not applicable	2	18.18%
TOTAL		11

How clear and understandable are the eligibility requirements and ranking criteria for the AIS grant program?

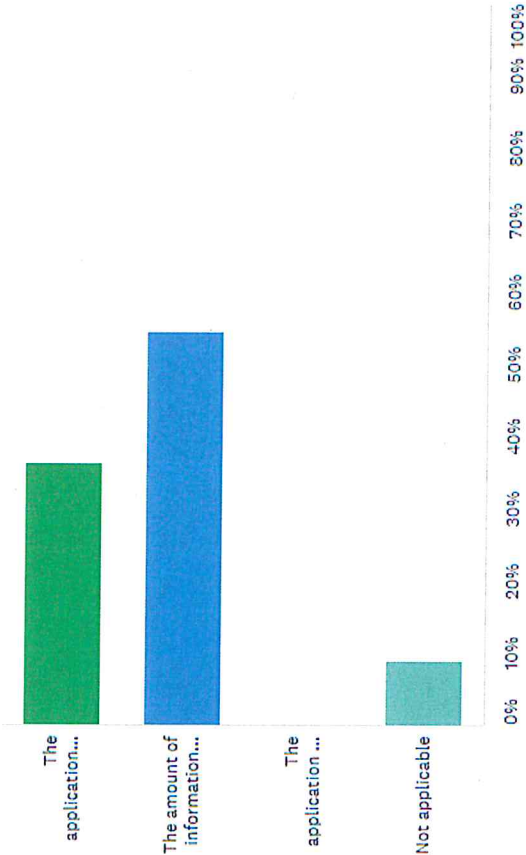
Answered: 11 Skipped: 0



ANSWER CHOICES		RESPONSES
▼	Very clear	2
▼	Somewhat clear	5
▼	Not so clear	4
▼	Not at all clear	0
TOTAL		11

Did you feel that the amount of information requested in the application and time required to complete an application was appropriate for the funding level (\$15,000)?

Answered: 11 Skipped: 0

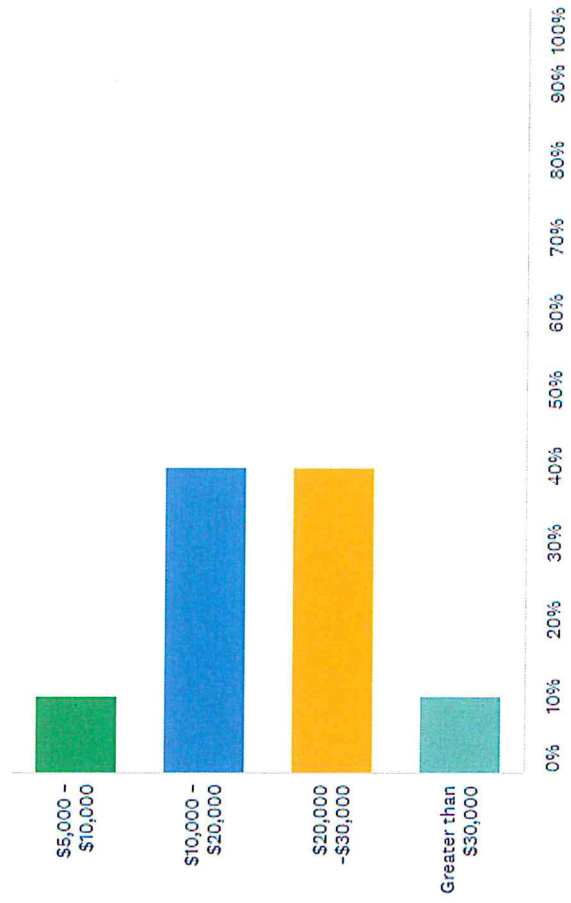


ANSWER CHOICES

	RESPONSES
The application should be simplified. The information and amount of time needed to complete an application is excessive.	4
The amount of information requested and time to complete the application is just about right	6
The application is too simple. More information should be requested. The application is easy to complete	0
Not applicable	1
TOTAL	11

What amount of funding is most helpful for the types of invasive species projects you would complete in the future?

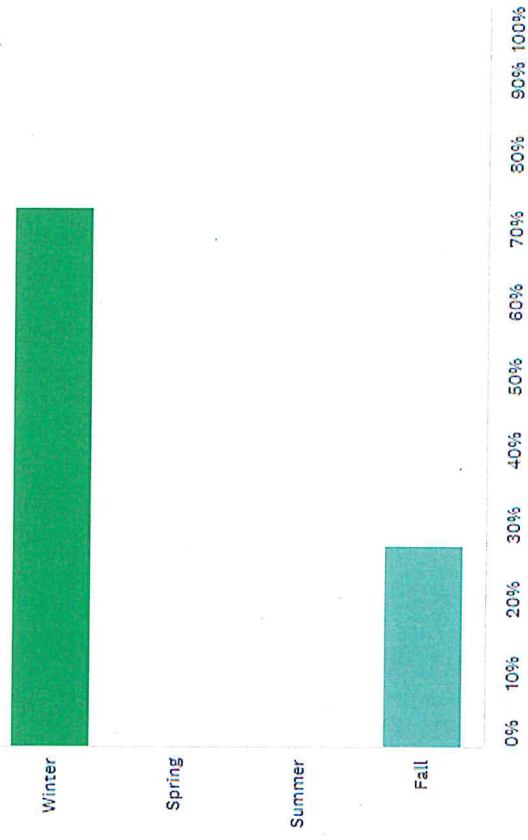
Answered: 10 Skipped: 1



ANSWER CHOICES	RESPONSES
▼ \$5,000 - \$10,000	10.00% 1
▼ \$10,000 - \$20,000	40.00% 4
▼ \$20,000 - \$30,000	40.00% 4
▼ Greater than \$30,000	10.00% 1
TOTAL	10

What is the best time of the year in your workflow to complete and submit a grant application for an AIS project and still be able to start the project on time?

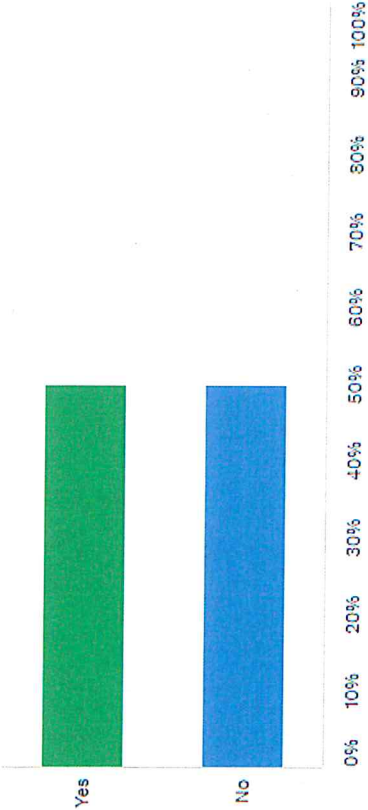
Answered: 11 Skipped: 0



ANSWER CHOICES		RESPONSES
▼ Winter		8
▼ Spring		0
▼ Summer		0
▼ Fall		3
TOTAL		11

Would you support a two phase (letter of intent and full application) proposal process in the future?

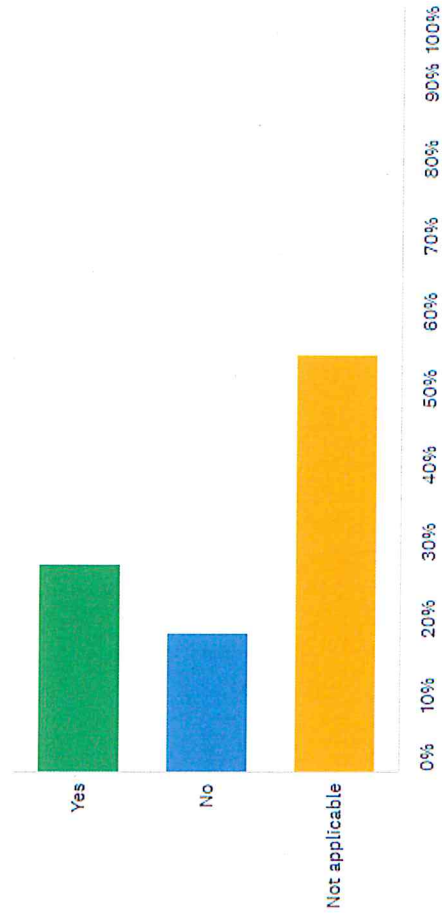
Answered: 10 Skipped: 1



ANSWER CHOICES		RESPONSES	
Yes		50.00%	5
No		50.00%	5
TOTAL			10

If you were not a successful grant recipient, did you feel that you were provided a satisfactory rationale that allowed you to make adjustments for future applications?

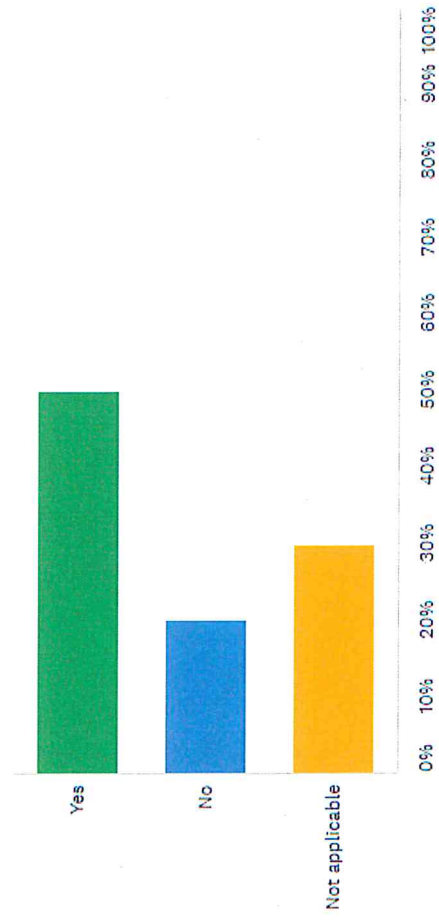
Answered: 11 Skipped: 0



ANSWER CHOICES		RESPONSES	
▼ Yes		27.27%	3
▼ No		18.18%	2
▼ Not applicable		54.55%	6
TOTAL			11

If you were a successful grant recipient, did you find the grant reporting requirements manageable?

Answered: 10 Skipped: 1



ANSWER CHOICES		RESPONSES	
Yes		50.00%	5
No		20.00%	2
Not applicable		30.00%	3
TOTAL			10

What, if anything, would you suggest change about the AIS grant application process?

Answered: 7 Skipped: 4

- I feel the grant application process was very acceptable and no changes are necessary.
- Please make the application available in late winter (Dec-Feb) and quick decision so that successful applicants have enough time to prepare for the field season and look for other funding sources if not successful.
- The grant needs to be moved to webgrants. This makes expectations about grant requirements, reporting, documents and what of these tasks have been fulfilled more transparent for both the grantee and the grantor.
- It would be great to have more flexibility that allows partnership approaches to apply for more funding -- particularly when those partnerships across watershed boundaries are leveraging resources.

What, if anything, would you suggest change about the AIS grant program itself? (e.g. eligibility/who can apply; amount of grants; reporting requirements; timeline; communication of state priorities, etc.)

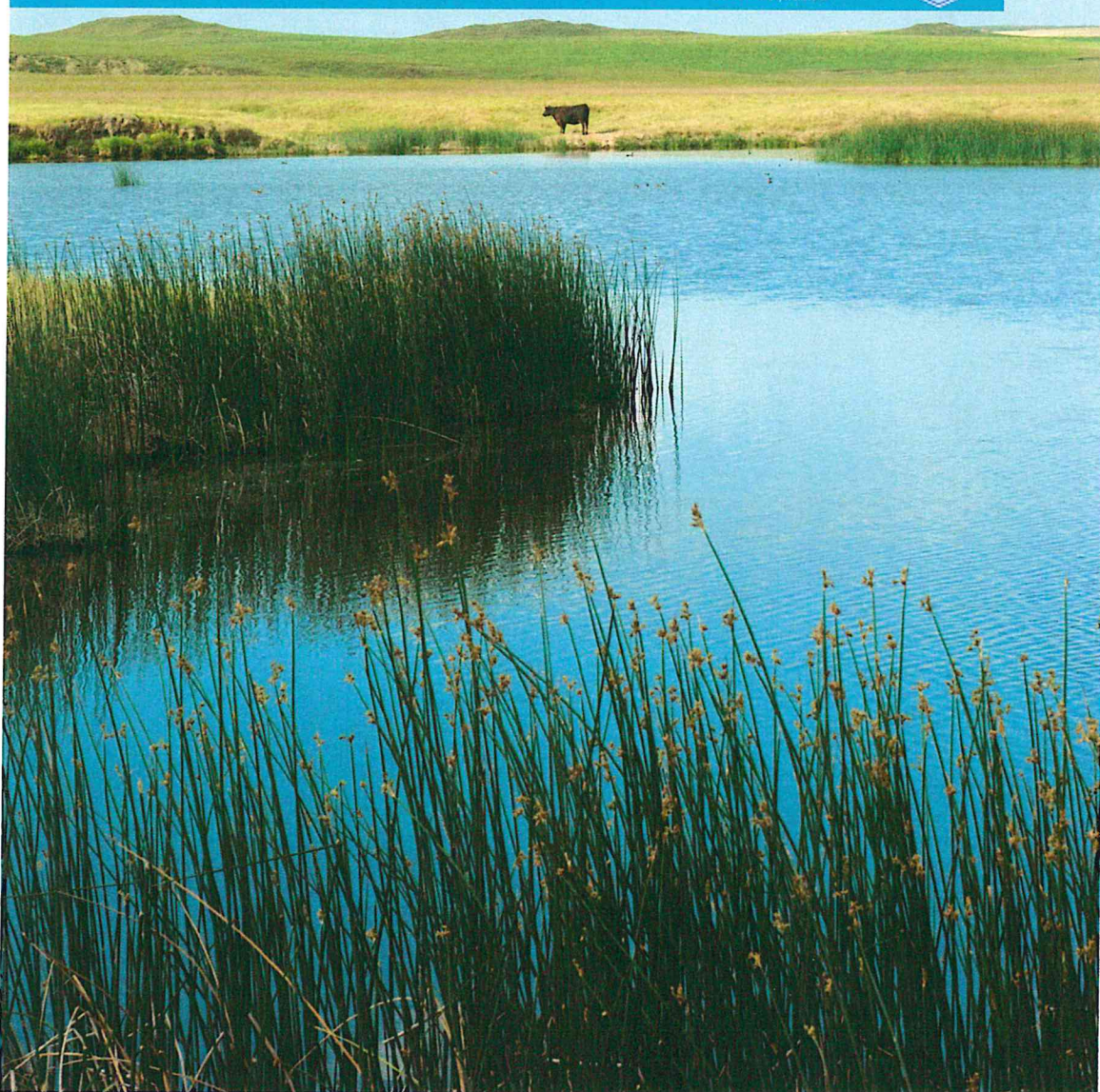
Answered: 10 Skipped: 1

- The grant reporting requirements are manageable, but excessive for the amount of dollars awarded - either the expectations for grant reporting need to be more clear in the beginning, or some of the details can be eliminated (ex. agenda and meeting minutes of meeting attended - that needs to be specified in the beginning or not asked for).
- I appreciate the MISC oversight and the DNRC administration skills - makes for a great team!
- Please make this program available to nonprofits. We are a key partner in fighting AIS, but need resources if we are going to be able to help effectively.
- This program should be opened to all entities including fishing clubs, non-profits, etc.
- Make it available to 501 c 3 organizations doing AIS work.
- Please re-think how you fund Outreach and Education. Only funding O&E for 'starter' one-year projects doesn't make sense. To prevent AIS in our watersheds, there needs to be continual O&E presence and funding available. It doesn't make any sense to not fund org's to do monitoring, but not O&E. Monitoring is only going to show us where AIS show up and then it will be too late. Seems like priorities should be Prevention, O&E, then Monitoring and current funding is in reverse order.
- eligibility/who can apply; communication/discussion of local and state priorities
- Quarterly reporting through the field season is difficult. Again webgrants would help streamline reporting, reimbursement request, contracts etc. I believe Non-profits should be able to apply as long as they meet certain requirements. I think the funding goals and eligible projects should be more clear. Also who is reviewing the grants. Being able to present your project to the funding committee would be beneficial.
- The focus on "new projects" (as opposed to maintaining and enhancing ongoing "program approaches") is challenging for local organizations trying to maintain good approaches to AIS monitoring, outreach and management. Locally, we need to continue using the strategies that have proven effective and rely on the support of existing experienced staff. For some reason, AIS program continuation is viewed negatively versus coming up with new "project" ideas. Yet those local programs are providing strong bridges based on the relationships and trust that local organizations have with their stakeholders. Also, it would be great if the program better recognized that it takes local organizational capacity to deliver on state AIS program goals -- and that supporting NGO staff time is actually a beneficial investment from this grant program. Finally, it would be great to bring local grantees together to learn from each other and provide in-person feedback to the state partners. That would make all of this separate local efforts more effective in feeding up to the broader state goals (and probably help us craft stronger project concepts and grant proposals).

Aquatic Invasive Species

Grant Program Advisory Council

Standard Operating Procedures
2019-2020



Overview

In the 2019 Legislature, funding for the Aquatic Invasive Species Grant Program was provided through the AIS funding package in HB 32. Prior to that, funding was appropriated to the Department of Natural Resources and Conservation (DNRC) through the Reclamation and Development Grants Program.

The new legislation in 2019, directs the DNRC to administer the AIS Grant Program in coordination with the Montana Invasive Species Council (MISC). DNRC will provide fiscal management of the grant program and approve funding decisions, while MISC will manage the application process, reviews, and provide recommendations to the DNRC Director. Funding in the amount of \$278,000/year for FY 20 and FY 21 was appropriated by the legislature. DNRC may incur up to 10% of the yearly appropriation for administration of the program.

Aquatic Invasive Species Grant Account

80-7-1017. Invasive species grant account. (1) There is an invasive species grant account in the state special revenue fund established in [17-2-102](#). Subject to appropriation by the legislature, money deposited in the account must be used pursuant to [80-7-1018](#) and this section.

(2) Deposits to the account may include but are not limited to grants, gifts, transfers, bequests, donations, appropriations from any source, and deposits made pursuant to [80-7-1016](#).

(3) Interest and income earned on the account and any unspent or unencumbered money in the account at the end of a fiscal year must remain in the account.

(4) Money deposited in the account may be used for costs incurred by the department of natural resources and conservation to administer the provisions of [80-7-1016](#) through [80-7-1018](#). Except for startup costs incurred in the first year of the program, the administrative costs in any fiscal year, including but not limited to personal services and operations, may not exceed 10% of the total amount of grants and contracts awarded pursuant to [80-7-1018](#) in the previous fiscal year.

Aquatic Invasive Species Grant Program—rulemaking

80-7-1018. Invasive species grant program -- criteria -- rulemaking. (1) Money deposited in the invasive species grant account established in [80-7-1017](#) may be expended by the department of natural resources and conservation through grants to or contracts with communities or local, state, tribal, or other entities for invasive species management.

(2) For the purposes of this section, the term "invasive species management" includes public education and planning, development, implementation, or continuation of a program or project to prevent, research, detect, control, or, where possible, eradicate invasive species.

(3) A grant or contract may be awarded under this section for demonstration of and research and public education on new and innovative invasive species management.

(4) In making grant and contract awards under this section, the department of natural resources and conservation shall give preference to local governments, collaborative stakeholders, and community groups that it determines can most effectively implement programs on the ground.

(5) If the governor appoints an advisory council on invasive species, the department of natural resources and conservation shall consider recommendations by the advisory council for awards made under this section.

(6) The department of natural resources and conservation is not eligible to receive grants and contracts under this section.

(7) The department of natural resources and conservation may accept federal funds for use pursuant to this section.

(8) Any funds awarded under this section, regardless of when they were awarded, that are not fully expended upon termination of a contract or an extension of a contract, not to exceed 1 year, must revert to the department of natural resources and conservation and be deposited in the invasive species grant account established in [80-7-1017](#). The department of natural resources and conservation shall use any reverted funds to make future awards pursuant to this section.

(9) The department of natural resources and conservation may adopt rules to administer the provisions of [80-7-1016](#) through [80-7-1018](#).

Advisory Council

The Aquatic Invasive Species Advisory Council (AISAC) is composed of Montana Invasive Species Council governor-appointed members or their

delegates. The Montana Invasive Species Council shall appoint AISAC members who shall be voting members of the council that provide funding recommendations to the director of the Department of Natural Resources & Conservation.

The AISAC shall be composed of 9 members, as follows:

- 1) the AIS bureau chief, who shall serve as presiding officer;
- 2) one member representing the hydropower industry;
- 3) one member representing conservation districts;
- 4) one member representing conservation organizations;
- 5) one member representing the agriculture industry
- 6) one member representing weed districts
- 7) one member representing Montana tribes
- 8) one member representing the Montana Department of Agriculture;
- 9) one member representing the Montana Department of Transportation;

Other Representatives

Federal agency partners and technical experts are an important component to the overall function of the Council and thoroughness of application review. They provide expertise and guidance to the Council on a variety of subjects. Federal agency partners and technical experts provide secondary review of applications. These representatives, on request, evaluate and score applications but are not voting members of the Council. Representatives include but are not limited to:

- 1) U.S. Fish & Wildlife Service
- 2) U.S. Bureau of Reclamation
- 3) U.S. Army Corps of Engineers
- 4) The Invasive Species Action Network
- 5) Montana Fish, Wildlife & Parks AIS staff
- 6) Montana Department of Natural Resources & Conservation Invasive Species staff
- 7) Other technical expertise as needed for evaluation

AISAC Appointments and Re-appointments

AISAC appointments are made by the full body of the Montana Invasive Species Council (MISC). Terms align with the appointees MISC term, which are staggered four-year terms.

AISAC Member Responsibilities

The AISAC is an integral asset to the Department of Natural Resources and Conservation and the Montana Invasive Species Council. The Council meets one time a year to review and rank applications in **January???**. Attendance is required for all meetings and can be attended either in person or by conference call.

Council members who are not government employees are entitled to reimbursement for travel expenses at the state per diem rate (MCA 2-18-501).

Review packets are provided by MISC staff, they contain the minimum:

- Submitted and eligible applications
- Review ranking criteria sheets
- Council travel reimbursement form

AISAC application review meetings are chaired by the AIS bureau chief or their designee, open to the public, recorded, and follow Robert's Rules of Order. Members of AISAC provide input concerning the administration of the Aquatic Invasive Species Trust Fund (AISTF) and provide recommendations related to aquatic invasive species management in Montana. They review and provide updates to the state aquatic nuisance species plan, and promote coordination and cooperative partnerships among private, county, industry, state, and federal entities. Members provide funding recommendations for AIS grant proposals to the Director of DNRC annually.

AIS Grant Program

AIS GRANT PROGRAM POLICIES

AIS grant program policies are either adopted from existing DNRC policy, Noxious Weed Trust Fund policy, or adopted by the AISAC.

- No Indirect Cost will be allowed on any AIS grant; DNRC 1/1992

NWTF Policies

- Emergency Funding allowed by application, \$25,000 limit;

- Allow 3% (\$1,000 cap) for administration costs on local cooperative projects for non-county or reservation project funding recipients; 1/2017
- Grant recipients are required to use, or share data with, EDDMapS West to map all weed infestations within the project boundaries; 2/2017
- Project funding recipients may be reimbursed for travel expenses (meals, mileage) up to current state per diem rates; 3/2019
- Project herbicide costs may not exceed current state bid prices by more than 15%; 3/2019

AQUATIC INVASIVE SPECIES GRANTS

The Montana Department of Natural Resources and Conservation (DNRC) and the Montana Invasive Species Council are offering grants for the management of aquatic invasive species (AIS). AIS grants are intended to increase local capacity and involvement to support state AIS prevention, early detection, education, treatment, and research needs. Funding will be available as appropriated by the state legislature each biennium.

APPLICANT ELIGIBILITY

AIS grants are available to communities or local, state, tribal, or other entities within the state.

PROJECT ELIGIBILITY

The proposed project must contribute to the protection of Montana's aquatic environment from severe and unacceptable damage to natural resources from AIS. Activities include but are not limited to aquatic invasive species:

Prevention Projects: Expand capacity and local involvement for AIS prevention efforts. Support locally driven efforts to operate watercraft inspection and prevention programs. Must include education component. FWP training and outreach materials required.

Monitoring Projects: Expand capacity, awareness and local involvement in AIS survey and early detection. Expand local involvement in AIS monitoring training, survey and sample collection to improve ability to detect and monitor AIS state-wide. Must follow FWP AIS monitoring protocols and utilize AIS monitoring app.

Outreach and Education Projects: Expand capacity and distribution of AIS outreach and education to improve AIS awareness and reinforce the Clean Drain Dry message.

Treatment: Treatment of aquatic invasive plants and other AIS. Treatments must utilize the most effective and efficient tools available to achieve eradication or control of target species.

Research: Research investigating techniques and strategies to improve AIS prevention, early detection, education or control. Projects must be applied research that addresses existing

Grant types:

Initiation grants: Capacity building grant intended to support local entities involvement in AIS prevention, early detection or education. One time fully-funded program development grant intended to initiate long-term locally driven AIS programs. No match required.

Commented [HS1]: Insert funding limits for each category

Special projects: Special one-time AIS projects involving AIS prevention, early detection, education or treatment. No match required.

Ongoing program support: Sustaining support for ongoing AIS prevention, early detection and outreach efforts. 50:50 match required.

AIS treatment projects: Eradication or control of invasive aquatic plants and other AIS. Project must demonstrate public benefit from proposed project (example: Eradication of AIS populations, improved public access, habitat improvement). 50:50 match required.

Commented [HS2]: Require management plan?

AIS research projects: Applied research to improvement AIS prevention, early detection, education or control. 50:50 match required.

Emergency projects: In the event of an AIS emergency or new detection, grant funds may be awarded outside of the normal grant cycle following approval of the review committee.

Commented [HS3]: Match?

*Partial or full match requirement waivers may be considered for exemplary projects that address critical AIS program needs. Match waiver requests will be evaluated by the review committee and require unanimous committee approval.

Considerations:

- Grants are not intended to fully fund and maintain long-term projects, positions or programs.
- Coordination is required with FWP AIS program to ensure continuity and consistency in Montana's AIS program. Grantees must follow FWP protocols. Materials produced through this grant program must be reviewed and approved prior to production to ensure consistency with state-wide program. **Proposals must address state-wide AIS priorities.**
- Applicants are encouraged to coordinate with FWP prior to application submission.
- Preference will be given to: AIS species on the Montana Noxious Weed List and AIS under the authority of Montana Fish, Wildlife & Parks (FWP) (see Appendix A); and to locally-led on-the-ground projects such as surveys and removal that result in measurable control of AIS.

Commented [H54]: Does this include seasonal monitoring?

Commented [H55]: Need to define what this means. E.g. does monitoring of a small lake address state-wide priorities?

INELIGIBLE COSTS

The following tasks are ineligible for grant funds:

- Activities outside of the scope of work
- Costs incurred outside of the contract term
- Routine maintenance and operation
- eDNA sampling/processing
- Salaries/wages, travel, and other expenses not directly related to the project
- Expenses related to presenting the project at workshops, conferences, or other public venues, unless specifically included in the scope of work
- Administrative costs greater than 10% of the total project cost
- Equipment unless specifically included in the scope of work
- Food and beverages for meetings
- Indirect costs (for example, facilities and administration)

APPLICATION PROCESS

PRE-PROPOSAL:

Applicants must submit a pre-proposal to be eligible for the full proposal process. The pre-proposal must be completed according to the pre-proposal form provided by the department. The pre-proposal form can be found at: **xxx**. Pre-proposals are limited to 3 pages in length and must be submitted on web **grants by xxx**. Late applications will not be considered for funding. Applicants will be notified of the outcome of their pre-proposal and if successful, will be

invited to submit a complete application packet. Please note that an invitation to submit a complete application packet does not guarantee that your project will be funded.

PROPOSAL:

Applicants invited to submit full proposals will be notified by the department. The applicant will be required to submit a full proposal on web grants by.....

If submitting more than one project for funding consideration, complete a separate application form and include all required information for each project. Please, provide a "priority" ranking for multiple applications from the same organization.

APPLICATION EVALUATION

SCORING SUMMARY	MAXIMUM SCORE
Project Purpose and Scope	100
Project Management and Likelihood of Success	
Grant Type Scoring	
TOTAL MAXIMUM SCORE	

PROJECT PURPOSE AND SCOPE	SCORING RANGE
PROJECT PURPOSE AND SCOPE	
	0-25

<p>Does the proposed project directly address specific invasive species prevention, detection, eradication, or control objectives outlined in local, regional, state, tribal, or federal agency plan(s)?</p> <ul style="list-style-type: none"> • 15 = Proposed project outcomes are strongly linked to two or more plans. • 8 = Proposed project outcomes are linked to a single plan. • 0 = Proposed project is not linked to any plan. 	
<p>Will the project result in large-scale ecological benefits with regional and/or statewide implications?</p> <ul style="list-style-type: none"> • 25 = Proposed project outcomes will clearly result in statewide benefits. • 13 = Proposed project has regional implications only. • 0 = Proposed project is local in application or only addresses a single waterbody. 	0-25
<p>Does the project focus on priority aquatic invasive species for prevention, detection, eradication, control or management?</p> <ul style="list-style-type: none"> • 15 = Proposed project focuses on multiple AIS for more than one category of prevention, detection, eradication, control, or management. • 8 = Proposed project focuses on 2 or fewer AIS for only one or more categories of prevention, detection, eradication, control or management. • 0 = Proposed project focuses on 1 AIS for only one category of prevention, detection, eradication, control or management. 	0-25
<p>Is there a demonstrated level of community support and commitment, including past efforts to prevent or control AIS and opportunity to provide specific ecological and community benefits?</p> <ul style="list-style-type: none"> • 15 = Level of community support is clearly documented through past efforts and current letters of support. • 8 = Level of community support is somewhat documented through past efforts OR current letters of support. • 0 = Level of community support is not documented through past efforts nor does the application contain any letters of support. 	0-25
PROJECT MANAGEMENT AND LIKELIHOOD OF SUCCESS	
<p>Are the proposed project goals and objectives clearly stated, with appropriate and effective methods, to address the issue with a high likelihood of success?</p> <ul style="list-style-type: none"> • 20 = The proposed project has clearly stated project goals and the objectives and methods are appropriate to achieve the objectives. • 10 = The proposed project has identified goals and objectives but the methods are not completely described. 	

<ul style="list-style-type: none"> 0 = The proposed project lacks clear goals and objectives and the methods are not described. 	
<p>Are the methods proven effective or unique and innovative? Will the results advance the state of knowledge or approaches to prevention, detection, eradication, and control regarding invasive species management?</p> <ul style="list-style-type: none"> 15 = Methods are well established and referenced as the most contemporary approaches to addressing the issues OR the methods are innovative and outcomes may advance the knowledge of invasive species prevention, detection, eradication and control. 10 = Methods are well described and are generally accepted as proven. 0 = Methods are not well described and are questionable in efficacy. 	
<p>Does the project team have the collective experience, education and capacity to lead the proposed project to a successful outcome?</p> <ul style="list-style-type: none"> 10 = The team has documented their experience, education, and capacity to lead the project successfully. 5 = The team has some experience in leading projects regarding invasive species management. 0 = The project team has no experience in leading projects regarding invasive species management 	
INITIATION, SPECIAL PROJECTS, EMERGENCY CRITERIA	
ONGOING PROGRAM SUPPORT	
TREATMENT PROJECTS	
RESEARCH PROJECTS	

Commented [N56]: Advisory Committee to develop project type ranking criteria

INELIGIBLE APPLICATIONS

Ineligible applications are those which are submitted after the due date or those that provide insufficient match. Applications not submitted on the proper forms, or are incomplete, may also be considered ineligible for funding assistance.

APPLICATION REVIEW PROCESS

Applications will be scored by the Aquatic Invasive Species Advisory Committee and technical staff. Applications will be ranked based on their final scores and projects will be recommended for funding based on a combination of scoring criteria, project type, project metrics, geographic location, and available funding. The list of the projects recommended for funding will be reviewed by the Director of the Department of Natural Resources and Conservation for approval. Following approval, all applicants will receive notification of the outcome.

CONFLICT OF INTEREST:

Voting council members should abstain from voting on and scoring a project if:

- They are actively involved in the project (including the organization they are representing)
- They stand to benefit from the project
- They personally feel uncomfortable in voting on the project
- They would be inclined to vote to fund the project based on the people involved rather than the merit of the project

REQUIRED GRANT AGREEMENT DELIVERABLES

Upon award of a grant, **the grantee must enter into a grant agreement with DNRC.** Under terms of the agreement, the grantee must submit periodic progress reports and a final report of project activities.

PAYMENT

The grant agreement will not be effective until signed and dated by representatives of DNRC and the grantee. **Expenses incurred before the grant agreement becomes effective will not be reimbursed.** The agreement termination date will depend on the project schedule. DNRC will reimburse eligible project costs upon receipt and approval of requests for payment, supporting documentation, and accompanying progress reports.

DNRC will reimburse project costs upon **receipt and approval of requests for payment, supporting documentation, and accompanying progress reports.** Progress reports will include project activities during the reporting period, costs incurred, funds remaining, anticipated activities during the next reporting period,

and expected changes in scope, schedule or budget. The Project Sponsor shall report on total project costs, including those funded by the Project Sponsor and other matching funds. The Project Sponsor will receive the final payment based on the total of actual costs submitted, not to exceed the total contracted amount, upon delivery of a final report and a final invoice. The final invoice must accurately account for grant expenses for contractors and grantee expenses for time and materials, including hourly rates and work hours, contract award amount, total grant amount expended, grant amount received, and remaining grant balance, if any.

REPORTING

Progress reports are required with each reimbursement request or on a quarterly basis, whichever occurs sooner. Progress reports must include project activities during the reporting period, costs incurred, funds remaining, anticipated activities during the next reporting period, and expected changes in scope, schedule or budget. Reported project costs must include those funded by the Project Sponsor and matching funds.

DNRC will release final payment based on the total of actual costs submitted, not to exceed the total contracted amount, upon delivery of a final report, final invoice, and other deliverables as outlined in the grant agreement, e.g. survey data sets. The final invoice must accurately account for grant expenses for contractors and grantee expenses for time and materials, including hourly rates and work hours, contract award amount, total grant amount expended, grant amount received, and remaining grant balance, if any.

PROCUREMENT AND PERMITTING REQUIREMENTS

Grantees agree to comply with all relevant procurement and contracting requirements related to work performed under DNRC grant agreements. In some cases, DNRC retains the right to approve subcontracts.

Grantees are responsible for obtaining all necessary local, state, and federal permits for the completion of projects approved for funding through the AIS Grant Program. Landowner permission must be secured for projects on private land before contracting.

AIS Grant Program Implementation Timeline



	Complete by	Task.	Who
<input type="checkbox"/>	August 21	Appoint AIS Grant Program Advisory Committee	MISC members
<input type="checkbox"/>	Sept. 15	Review draft program standard operating procedures (SOPs) and provide input	MISC members
<input type="checkbox"/>	Sept. 20	AIS Grant Program Advisory Committee meets	AISAC
<input type="checkbox"/>	Oct. 1	Finalize SOPs for MISC approval <ul style="list-style-type: none"> • Define purpose and goals of program • Define project types and related ranking criteria • Define program policies, consider rule-making • Include EA checklist for control projects • Determine program schedule • Define reporting requirements 	AISAC and S.Hester
<input type="checkbox"/>	Oct. 1	Application(s) drafted	S. Hester
<input type="checkbox"/>	Oct. 17	MISC votes to approve final SOPs and application	MISC members
<input type="checkbox"/>	Nov. 1	Grant application(s) are built in WebGrants	S. Hester
<input type="checkbox"/>	Nov. 1	Programmatic environmental review	S. Hester
<input type="checkbox"/>	December	Announce open grant cycle	S. Hester
<input type="checkbox"/>		Applications due	
<input type="checkbox"/>		Review and Ranks	
<input type="checkbox"/>		Awards	

CATALOGUING A MYRIAD OF METHODS: WHITE PAPER ON THE
INVASIVE SPECIES LISTING PROCESS IN MONTANA PER AGENCY

DRAFT



A MONTANA INVASIVE SPECIES COUNCIL PROJECT
SUMMER 2019

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I. ABSTRACT

This White Paper addresses defined terms and the listing processes pertaining to invasive species. Both the federal and state definitions are to be analyzed for clarity and expose any inconsistencies amongst them. The White Paper provides a list of invasive species by category and under what controlling agency they are housed within. It will also describe the complete listing process per agency within the state of Montana and how the agency defines commonly used terms. Finally, this White Paper will reveal the complexities of listing new or emerging invasive species.

II. PROBLEM STATEMENT

Although there is statutory authority describing departmental responsibilities for listing an invasive species, certain categories of species do not have a distinct listing process and thus the requirement to subsequently manage those species is unclear. Some of the complexities surrounding the invasive species listing process in Montana come from the challenges inherent to shared responsibilities across multiple agencies and from the inconsistent definitions and uses of key terms. Additionally, the lack of statutory authority for emerging species produces difficulty in management and rapid response of such species.

III. BACKGROUND

A. *Introduction of Invasive Species Project*

In 2018, the Montana Invasive Species Council undertook a comprehensive review of federal, state, local and tribal laws and regulations which pertain to the management of invasive species within the state of Montana. The purpose of the review, which culminated in a Compendium of Invasive Species Laws was to:

1. provide managers and lawmakers with a systematic compilation of the laws and regulations relevant to the management of all-taxa invasive species in the state;
2. provide information and ideas to improve funding, authority, and management responsibility; and
3. provide the necessary information for the council to evaluate the need for a comprehensive Montana Invasive Species Act, as outlined in the 2016 Montana Invasive Species Framework

The Summit was intended to provide a forum for invasive species managers, county leaders, local and tribal governments, private landowners and other stakeholders to evaluate law review findings, hear panelists discuss different models from across North America, suggest action, provide the latest science, and develop recommendations to address invasive species regulatory

issues. Sessions were developed based on findings from the law review, which included the following topics: 1) all taxa invasive species listing; 2) managing pathways instead of species; 3) addressing species with economic benefits but environmental impacts; 4) aquatic invasive plant management in Montana; 5) regulations and enforcement of invasive species; and 6) political champions.

The two day-event, held November 15-16 in Helena, featured national and state leaders and technical experts who provided insight and best practices on invasive species laws and regulations. Each panel produced a set of outcomes moving forward. One outcome, from both the all-taxa invasive species listing panel and the managing pathways instead of species panel, was a formal recommendation to review current listing processes and compare those with alternative jurisdictions' listing processes in hopes of determining potential areas of improvement.

The subsequent sections of this White Paper will utilize the teachings from the Summit panels by detailing defined terms, agency listing processes, current invasive species lists per agency, as well as the emerging species process, in hopes of revealing the complexities and areas where improvements are desirable within the current structure in Montana.

B. Agency Definitions Pertaining to Invasive Species

1. Advisory Council

Federal: There is no federal definition for "advisory council." Instead, Executive Order 13112 accounts for the creation of a National Invasive Species Council with the responsibility to advise and inform the public and stakeholders about invasive species issues; *Executive Order 13112*, §3.

Montana: Statutes pertaining to noxious weed management refer to an "advisory council," meaning: "the noxious weed management advisory council provided for in MCA §80-7-805"; *ARM §4.5.101*. This statute states, "the director of the department shall appoint a noxious weed management advisory council to provide advice to the department concerning the administration of this part. If appointed, the council must be composed of 11 members, as follows: the director of the department of agriculture, who shall serve as presiding officer; one member representing livestock production; one member representing agriculture crop production; one member from a recreationist/wildlife group; one member who is a herbicide dealer or applicator; one member from a consumer group; one member representing biological research and control interests; one member from the Montana weed control association; two members representing counties, one from the western and eastern parts of the state, which may include a county commissioner, district weed board member, or weed district supervisor; and one at-large member from the agricultural community"; *MCA §80-7-805*. No other state statute includes a definition of Advisory council.

2. Alien Species

Federal: The term “alien species” is defined by *Executive Order 13112*, meaning: “with respect to a particular ecosystem, any species, including its seeds, eggs, spores, or other biological material capable of propagating that species, that is not native to that ecosystem.”

Montana: There is no definition of “alien species” in Montana.

3. Aquatic Nuisance Species

Federal: “Aquatic nuisance species,” is defined as: “a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters”; *16 U.S.C. §4702*.

Montana: There is no definition of “aquatic nuisance species” in Montana, however, the Montana Code Annotated includes a definition of invasive species pertaining to aquatic ecosystems. Under the Montana Aquatic Invasive Species Act an “invasive species” (aquatic) is defined as: “upon the mutual agreement of the directors of the departments, a nonnative, aquatic species that has caused, is causing, or is likely to cause harm to the economy, environment, recreational opportunities, or human health”; *MCA §80-7-1003*.

4. Board

Federal: There is no federal definition for “board” under invasive species laws. The federal terms utilized for a deciding body are council, committee, and task force, which are described under *Executive Order 13112*. The Council is made up of federal agencies, while the Committee is a group of non-federal experts and stakeholders. The Council and Committee work together to create action plans for the nation. Both the Council and the Committee are used for aquatic invasive species issues.

Montana: Under the County Weed Act “board” means: “a district weed board created under MCA §7-22-2103.” This statute states that: “the commissioners shall appoint a district weed board subject to the provisions in MCA §7-1-201 through §7-1-203. Upon a recommendation from the weed board, the commissioners may appoint a weed coordinator. The commissioners shall approve, approve with revisions, or reject a weed management plan submitted pursuant to MCA §7-22-2121”; *MCA §7-22-2101*. No other state statute includes a definition of “board.”

5. Commission

Federal: There is no federal definition of “commission” under invasive species statutes. As mentioned previously, the terms utilized under national invasive species laws are “council” and “committee,” rather than “commission.”

Montana: Statutes pertaining to the Public Trust Doctrine refer to a “commission,” meaning: “the fish and wildlife commission provided for in MCA §2-15-3402. The commission consists of five members. At least one member must be experienced in the breeding and management of domestic livestock. The governor shall appoint one member from Districts 1 through 5. Appointments must be made without regard to political affiliation and must be made solely for

the wise management of fish, wildlife, and related recreational resources of this state. A person may not be appointed to the commission unless the person is informed or interested and experienced in the subject of fish, wildlife, and recreation and the requirements for the conservation and protection of fish, wildlife, and recreational resources. A vacancy occurring on the commission must be filled by the governor in the same manner and from the district in which the vacancy occurs. The fish and wildlife commission is designated as a quasi-judicial board and the governor is not required to appoint an attorney to serve as a member of the commission"; *MCA §23-2-301*.

6. Community Group

Federal: There is no such term for "community group" under the national invasive species laws.

Montana: The Administrative Rules of Montana define a "community group" as: "three or more private landowners or federal, state, or local entities working together to control noxious weeds"; *ARM §4.5.101*. Other than noxious weed management statutes, no other state statute uses the term "community group."

7. Controlled Species

Federal: There is no federal definition of "controlled species."

Montana: The Administrative Rules of Montana for the Enforcement of Exotic Wildlife define the term "controlled species" as: "a live, exotic wildlife species, subspecies, or hybrid of that species"; *ARM §12.6.2201*.

8. Crop Weed

Federal: The Federal Seed Act does not include a definition for "crop weed," however, there are multiple seed definitions, including "agricultural seeds," "vegetable seeds," "weed seeds," and "noxious-weed seeds." "Agricultural seeds" means: "grass, forage, and field crop seeds which the Secretary of Agriculture finds are used for seeding purposes in the United States and which he lists in the rules and regulations prescribed under section 402 of this Act." The term "vegetable seeds" means: "the seeds of those crops that are or may be grown in gardens or on truck farms and are or may be generally known and sold under the name of vegetable seeds." The term "weed seeds" means: "the seeds or bulblets of plants recognized as weeds either by the law or rules and regulations of the state into which the seed is offered for transportation, or transported or Puerto Rico, Guam, or District of Columbia into which transported, or District of Columbia in which sold." The term "noxious-weed seeds" means: "the seeds or bulblets of plants recognized as noxious by the law or rules and regulations of the state into which the seed is offered for transportation or transporter, by the law or rules and regulations of Puerto Rico, Guam, or the District of Columbia in which sold, or by the rules and regulations of the Secretary of Agriculture under this Act, when after investigation he shall determine that a weed is noxious in the United States or in any specifically designated area thereof"; *7 U.S.C. §1561*.

Montana: A “crop weed” under the Noxious Weed Management Trust Fund statutes is defined as: “any plant commonly accepted as a weed and for which grants for management research, evaluation, and education under MCA §80-7-814(5)(g) may be given”; *MCA §80-7-801*.

9. Department

Federal: Depending on the type of invasive species—aquatic invasives, noxious weeds, vertebrate pests, etc.—the term “department” means the controlling agency.

Montana: Depending on the type of invasive species—aquatic invasives, noxious weeds, vertebrate pests, etc.—the term “department” means the controlling agency.

10. Domestic Species, Domestic Animal

Federal: Under the Animal Welfare Act, “animal” is closely synonymous with “domestic species” and means: “any live or dead dog cat, nonhuman primate, guinea pig, hamster, rabbit, or any other warm blooded animal, which is being used, or is intended for use for research, teaching, testing, experimentation, or exhibition purposes, or as a pet. This term excludes birds, rats of genus *Rattus*, and mice of the genus *Mus*, bred for use in research; horses not used for research purposes; and other farm animals, such as, but not limited to, livestock or poultry used or intended for use as food or fiber, or livestock or poultry used or intended for use for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. With respect to a dog, the term means all dogs, including those used for hunting, security, or breeding purposes”; *9 C.F.R. §1.1*.

Montana: A “domestic animal” is defined as: “an animal that, through long association with humans, has been bred to a degree that has resulted in genetic changes affecting color, temperament, conformation, or other attributes of the species to an extent that makes the animal unique and distinguishable from wild individuals of the species and that is readily controllable if accidentally released into the wild; the term includes livestock as defined in MCA §81-2-702, dogs, cats, rodents, Eurasian ferrets, and poultry”; *MCA §87-5-702*.

11. Exotic Wildlife, Exotic Animal

Federal: Under the Animal Welfare Act, “exotic animal” means: “any animal not identified in the definition of “animal” provided in this part that is native to a foreign country or of foreign origin or character, is not native to the United States, or was introduced from abroad. This term specifically includes animals such as, but not limited to, lions, tigers, leopards, elephants, camels, antelope, anteaters, kangaroos, and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal, and Yak”; *9 C.F.R. §1.1*.

Montana: Under the Administrative Rules for the Enforcement of Exotic Wildlife, the term “exotic wildlife” is defined as: “a wildlife species that is not native to Montana; foreign or introduced”; *ARM §12.6.2201*. A “controlled exotic species” is defined as: “species placed on the controlled exotic wildlife list under MCA §87-5-707 that may be imported, possessed, or sold only pursuant to commission and department rules and an authorization permit provided for in MCA §87-5-705(2)”; *MCA §87-5-702*. A “noncontrolled species” is defined as: “a live, exotic

wildlife species, subspecies, or hybrid of that species that may be possessed, sold, purchased, or exchanged in the state without a permit, except as provided in this subchapter or in Montana statutes or federal statutes; a noncontrolled species may not be released into the wild unless authorized in writing by the department”; *ARM §12.6.2201*.

12. Feral Horse

Federal: There is no definition of feral horse, however, the Wild Free-Roaming Horses and Burros Act of 1971 provides a definition of “excess animals” which means “wild free-roaming horses or burros which have been removed from an area by the Secretary pursuant to application law or which must be removed from an area in order to preserve and maintain a thriving natural ecological balance and multiple-use relationship in that area.” *16 U.S.C. §1332*.

Montana: The Montana Code Annotated and the Administrative Rules of Montana do not include a definition for feral or wild horses, instead the definition refers to “horses” as including: “any mare, gelding, stallion, colt, foal, filly, mule, jack, and jenny”; *MCA §81-4-321*.

13. Feral Swine

Federal: There is no national definition of “feral swine” or “wild boar.” Instead the USDA utilizes state definitions to promote the Manage the Damage Campaign.

Montana: The Code does provide for a definition regarding “feral swine,” which are defined as: “a hog, boar, or pig that appears to be untamed, undomesticated, or in a wild state or appears to be contained for commercial hunting or trapping”; *MCA §81-29-101*.

14. Governing Body

Federal: There is no federal definition of “governing body” relating to invasive species.

Montana: For vertebrate pest management, a “governing body” is established and is defined as: “the governing body specific by the form of government adopted by a county”; *MCA §7-22-2501*. The local government entities—city, town, county—refer to “governing body” as: “the legislative authority of a local government”; *MCA §7-11-1002*.

15. Livestock

Federal: “Livestock,” is defined as, “all farm-raised animals”; *Animal Health Protection Act*. “Farm animal” is defined under the Animal Welfare Act and means: “any domestic species of cattle, sheep, swine, goats, llamas, or horses, which are normally and have historically, been kept and raised on farms in the United States, and used or intended for use as food or fiber, or for improving animal nutrition, breeding, management, or production efficiency, or for improving the quality of food or fiber. This term also includes animals such as rabbits, mink, and chinchilla, when they are used solely for purposes of meat or fur, and animals such as horses and llamas when used solely as work and pack animals”; *9 C.F.R. §1.1*.

Montana: For livestock control, the term “livestock” is defined as: “cattle, sheep, swine, horses, mules, and goats”; *MCA §60-7-102*.

16. Insect Pest

Federal: There is no federal definition of “insect pest.” Instead, federal laws, like the Federal Plant Pest Act and the Federal Plant Protection Act, refer to these pests collectively as “plant pests.”

Montana: An “insect pest” under the County Control of Insect Pests statutes shall include: “grasshopper, cutworm, pale western cutworm, armyworm, chinch bug, and any other insect or arthropod generally recognized as a destroyer of grain, hay, range, and horticultural crops”; *MCA §7-22-2302*.

17. Invasive Species

Federal: *Executive Order 13112* provides the federal definition for “invasive species” as: “an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health.” Furthermore, the National Invasive Species Management Plan clarifies “invasive species” as: “a species that is nonnative to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm to human health.” The NISMP and the Invasive Species Advisory Committee further clarified the term by stating: “many alien species are non-invasive and support human livelihoods or a preferred quality of life”; *National Invasive Species Management Plan, Appendix 6*.

Montana: The statutes describing the Montana Invasive Species Council, define the term “invasive species” as: “plants, animals, and pathogens that are nonnative to Montana’s ecosystem and cause harm to natural and cultural resources, the economy, and human health”; *MCA §80-7-1203*.

18. Management Area

Federal: There is no direct definition of “management area,” however, the Federal Land Policy and Management Act uses the term “area of critical environmental concern” to describe “an area within the public lands where special management attention is required to protect and prevent irreparable damage to important historic, cultural, or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards”; *43 U.S.C. §1702*.

Montana: Under the Montana Aquatic Invasive Species Act, an “invasive species management area” is defined as: “a designation made by a department under *MCA §80-7-1008* for a specific area or for a body or bodies of water for a specific or indeterminate amount of time that regulates invasive species or potential carriers of invasive species within the boundaries of that area”; *MCA §80-7-1003*. Also under the Act is the definition of a “statewide invasive species management area.” This term is defined as: “a management area for the purpose of preventing the introduction, importation, and infestation of invasive species through the mandatory inspection of vessels and equipment at key entry points to the state on a seasonal basis and the mandatory

decontamination of any vessel or equipment on or in which an invasive species is detected”; *MCA §80-7-1015*. In reference to noxious and nuisance weeds, a “weed management district” under the County Weed Act is defined as: “a management area formed in every county of this state and shall include all the land within the boundaries of the county, except that a weed management district may include more than one county through agreement of the commissioners of the affected counties”; *MCA §7-22-2101*.

19. Native Species

Federal: Executive Order 13112 defines “native species” as: “a species that, other than as a result of an introduction, historically occurred or currently occurs in that ecosystem.”

Montana: There is no definition of “native species” in the Montana Code Annotated. The County Weed Act, however, includes the term “native plant” and is defined as: “a plant indigenous to the state of Montana.” *MCA §7-22-2101*.

20. Noncontrolled Species

Federal: There is no federal definition of “noncontrolled species.”

Montana: The Administrative Rules of Montana for the Enforcement of Exotic Wildlife defines “noncontrolled species” as: “a live, exotic wildlife species, subspecies, or hybrid of that species that may be possessed, sold, purchased or exchanged in the state without a permit, except as provided in this subchapter or in Montana statutes or federal statutes. A noncontrolled species may not be released into the wild unless authorized in writing by the department. This definition does not authorize the sale, possession, transportation, importation or exportation of a noncontrolled species in violation of any applicable federal or state statute or regulation or county or city ordinance”; *ARM §12.6.2201*.

21. Nonindigenous Species

Federal: “Nonindigenous species,” which is defined as: “any species or other viable biological material that enters an ecosystem beyond its historic range including any such organism transferred from one country into another”; *16 U.S.C. §4702*.

Montana: There is no definition for “nonindigenous species” under Montana invasive species statutes.

22. Noxious Weeds

Federal: “Noxious weed,” which is defined as: “any plant or plant product that can directly or indirectly injure or cause damage to crops, livestock, poultry, or other interest or agriculture, irrigation, navigation, the natural resources of the United States, the public health, or the environment”; *7 U.S.C. §7702*.

Montana: A “noxious weed” or “weed” is defined as: “any exotic plant species established or that may be introduced in the state that may render land unfit for agriculture, forestry, livestock,

wildlife, or other beneficial uses or that may harm native plant communities and that is designated as a statewide noxious weed by rule of the department or as a district noxious weed by a board"; *MCA §7-22-2101*.

23. Pest

Federal: "Pest," which is defined as: "any of the following that can directly or indirectly injure, cause damage to, or cause disease in livestock: a protozoan, a plant, a bacteria, a fungus, a virus or viroid, an infectious agent or other pathogen, an arthropod, a parasite, a prion, a vector, any organism similar to or allied with any of the organisms described in this paragraph"; *7 U.S.C. §8302*.

Montana: Instead of an overall definition of "pest," Montana's statutes break down the term into specific categories. For example, when referring to noxious weeds, the term is "plant pest"; *see definition below*.

24. Pet

Federal: Under the Animal Welfare Act, "pet" is defined as: "any animal that has commonly been kept as a pet in family households in the United States, such as dogs, cats, guinea pigs, rabbits, and hamsters. This term excludes exotic animals and wild animals." *9 C.F.R. §1.1*.

Montana: There is no definition of "pet" in the Montana Code. The definition of "domestic animal" serves as the synonymous term.

25. Plant

Federal: "Plant," which is defined as: "any member of the plant kingdom, including seeds, roots, and other parts thereof"; *Endangered Species Act*. "Plant," which is defined as: "any plant for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed"; *7 U.S.C. §7702*.

Montana: There is no general definition of "plant" in the Montana Code.

26. Plant Pest

Federal: Other federal definitions pertaining to invasive species and like terms include: "plant pest," which is defined as, "any plant pest, the movement of which is prohibited pursuant to section 103 or 104 of the Federal Plant Pest Act, constitutes nonmailable matter"; *Alien Species Prevention and Enforcement Act*. "Plant pest," which is defined as: "any living stage of any of the following that can directly or indirectly injure, cause damage to, or cause disease in any plant or plant product: a protozoan, a nonhuman animal, a parasitic plant, a bacterium, a fungus, a virus or viroid, an infectious agent or other pathogen, any article similar to or allied with any of the articles specific in the preceding subparagraphs"; *7 U.S.C. §7702*.

Montana: A "plant pest" is defined as: "any organism that can directly or indirectly injure or cause damage in or to a plant, plant propagative material, or a plant product including, but not

limited to, an insect, weed, fungus, virus, bacteria, parasite, pathogen, nematode, vector or other organism that meets the criteria as a pest established by department rule”; *ARM §4.12.1301*.

27. Prohibited Species

Federal: There is no federal definition of “prohibited species.”

Montana: Under the Administrative Rules of Montana for the Enforcement of Exotic Wildlife, “prohibited species” is defined as: “a live, exotic wildlife species, subspecies, or hybrid of that species, including viable embryos or gametes, that may not be possessed, sold, purchased, exchanged, or transported in Montana, except as provided in MCA §87-5-709 or this subchapter”; *ARM §12.6.2201*. Likewise, under the Administrative Rules of Montana for the Classification of Prohibited and Restricted Species, “prohibited species” is defined as: “species and animals that may not be possessed, bred, released, imported, transported, bought, sold, bartered or traded within the state, except as authorized in writing by the department. A person may possess prohibited species for the life of the animals, provided that the person gained possession of the animals prior to May 15, 1992, and the animal is neutered and properly contained.” *ARM §12.6.1541*.

28. Quarantine

Federal: The term “quarantine” is not defined in statute. The USDA defines “quarantine” in their *Glossary of Phytosanitary Terms*, which states: “official confinement or regulated articles for observation and research or for further inspection, testing and/or treatment.” Quarantine is defined loosely through other sections pertaining to the action of quarantining a plant, such as section 301.11 of Title 7. This section states, “the state or area into which the plant or plant part is allowed to be imported is quarantined with respect to that plant or plant part and no person shall move any plant or plant part from any such quarantined state or area into or through any state or area not quarantined with respect to that plant or plant part”; *7 C.F.R. §301.11*.

Commented [HK1]: I searched all the regs. and could not find a definition of this in statute. There were definitions of it in the agency’s “guidebook” so that is what I cited!

Montana: Under Quarantines and Pest Management statutes, a “quarantine” is defined as: “a rule, order, or other legal instrument duly imposed or enacted by the department on regulated areas or articles”; *ARM §4.12.1301*.

29. Regulated Area

Federal: The term “regulated area” is used by the USDA and means: “an area into which, within which and/or from which plants, plant products and other regulated articles are subjected to phytosanitary regulations or procedures in order to prevent the introduction and/or spread of quarantine pests or to limit the economic impact of regulated non-quarantine pests”; *7 C.F.R. §305*.

Montana: The state definition of a “regulated area” is almost identical to the USDA term and is defined as: “an area into which, within which, and/or from which plants, plant products, and other regulated articles are subject to phytosanitary measures or a quarantine to prevent the introduction and/or spread of quarantine pests”; *ARM §4.12.1301*.

30. Special District

Federal: There is no federal definition of “special district” pertaining to invasive species.

Montana: A “special district” under the Creation and Governance of Special Districts is defined as: “a unit of local government that is authorized by law to perform a single function or a limited number of functions, the term includes, but is not limited to cemetery districts, museum districts, park districts, fair districts, solid waste districts, local improvement districts, mosquito control districts, multijurisdictional districts, and districts created for any public or governmental purposes not specifically prohibited by law; the term does not include business improvement districts, cattle protective districts, conservancy districts, conservation districts, water and sewer districts, planning and zoning districts, drainage districts, grazing districts, hospital districts, irrigation districts, library districts, livestock protective committees, parking districts, resort area districts, rural improvement districts, special improvement districts, lighting districts, rural fire districts, street maintenance districts, tax increment financing districts, urban transportation districts, water conservation and flood control projects, and weed management districts”; *MCA §7-11-1002*.

31. Species

Federal: *Executive Order 13112* generally defines “species” as: “a group of organisms all of which have a high degree of physical and genetic similarity, generally interbreed only among themselves, and show persistent differences from members of allied groups of organisms.”

Montana: There is no general definition of “species” in the Montana Code, rather there are specific defined terms for “controlled species,” “noncontrolled species,” and “prohibited species.”

32. Undesirable Plants

Federal: “Undesirable plants,” which is defined as: “plant species that are classified as undesirable, noxious, harmful, exotic, injurious, or poisonous, pursuant to state or federal law”; *7 U.S.C. §2814*.

Montana: There is no definition for “undesirable plants” in Montana.

33. Unintentional Introduction

Federal: Under the Nonindigenous Aquatic Nuisance Prevention and Control Act, “unintentional introduction” means: “an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes”; *16 U.S.C. §4702*.

Montana: There is no definition for “unintentional introduction” in Montana.

34. Vector

Federal: “Vector” is defined as: “a living organism, or molecule, including a recombinant or synthesized molecule, capable of carrying a biological agent or toxin to a host.” 18 U.S.C.S. §178.

Montana: A “vector” is defined as: “an organism that transmits a pathogen”; *ARM §4.12.1301*.

35. Vertebrate Pest

Federal: There is no federal definition of “vertebrate pest” pertaining to invasive species.

Montana: “Vertebrate pests” are defined as: “jackrabbits, prairie dogs, ground squirrels, pocket gophers, rats, mice, skunks, raccoons, bats, and the following depredatory and nuisance birds: blackbirds, cowbirds, starlings, house sparrows, and feral pigeons, when such animals and birds are injurious to agriculture, other industries, or the public”; *MCA §7-22-2501*.

C. Analysis of Agency Definitions

1. “Invasive Species” and Related Terms Analysis

The federal definition of invasive species is almost identical to the Montana definition used by the Invasive Species Council, except for the use of the term “alien species” in the federal definition. The use of “alien species” allows for the inclusion of all features of an invasive species, including the eggs, seeds, and other biological material. Thus, the federal definition provides a more specific direction for management given the breadth of it. The exclusion of “eggs” and “seeds” in the Montana definition means that noxious weed seeds and insect eggs statutorily are not covered, therefore cannot be managed under this authority. Certain acts, like the Weed Seed Free Forage Act, under MCA §80-7-901, account for noxious weeds and their seeds. The County Weed Act also has a provision, MCA §7-22-2155, which includes noxious weeds and their seeds, but only deems them as a common nuisance rather than generating authority. The use of multiple statutory authorities can create unwarranted confusion for the layperson researching how to manage an invasive species in Montana. Refining the definition to include consistent phrasing would help create continuity between statutory authority.

The use of “nonnative” in the Montana definition of “invasive species,” and second-handedly in the federal definition through “alien species,” creates confusion with species that are native, but can become invasive in nature. Additionally, some nonnative species are not easily identifiable to the layperson. For example, some species are harmful in certain locations, while in other locations can be beneficial, creating a disjointed reality.

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Another difficulty with the Montana definition of “invasive species” is the choice not to include emerging species or phrasing that pertains to those species, such as: “likely to cause.” The exclusion poses as a problem due to the sensitivity with management of emerging species and how quickly these species can spread. Without such language, the definition lacks authority over new or emerging species and enables a drawn out multi-agency decision-making process, potentially interfering with rapid responses to these threats.

Another point of confusion is the use of the term “pathogen” in the Montana definition. In comparison, the Administrative Rules of Montana do not utilize the term “pathogen” when describing invasive species. Instead, the term “vector” is used which describes an organism that transmits a pathogen. Vectors such as firewood, hay, or domestic animals can harbor multiple invasive species and are often transported over state lines. A consistent approach where either pathogen is replaced by vector, or both vector and pathogen are utilized, in the MCA and ARM terms would help eliminate any inconsistency.

Another term closely related to “invasive species” is the federal definition of “nonindigenous species.” This term describes species that transfers from its historic range into a new range, which includes the potential of it becoming invasive in the new range. The Montana statutes do not describe such a species, rather incorporate it into the broader invasive species definition, which serves more useful on the state level and reduces the redundancy of multiple terms. Synonymous terms like, “non-native” and “introduced” are not defined in state statute. The only term that closely resembles “nonindigenous” is “exotic,” which is analyzed below. A final discussion point is that “feral species” would not be considered invasive because they are species that were once domesticated or in human control. Because the definition of an “invasive species” does not account for feral animals or pests, it is difficult to manage such species unless there are specific statutes detailing their control; in Montana, there are no statutes that detail control or management of feral animals. See *vertebrate pests* below.

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2. “Invasive Species (Aquatic)” and Related Terms Analysis

The federal definition from the National Invasive Species Act specifically details aquatic invasive species and tailors the definition to the waters. The federal definition seems to provide the backbone for the Montana definition of invasive species under the Montana Aquatic Invasive Species Act, especially using terms like, “recreational” and “aquatic.”

The definition of invasive species (aquatic) under the Montana Aquatic Invasive Species Act calls for a cooperative effort between multiple agencies. The difficulty with this approach is that the definition and the Act itself does not account for exact management responsibility for each agency. For example, the definition mentions “upon a mutual agreement,” which mandates the decision to list as a collaborative one. The Act also describes the cooperative agreement for invasive species detection and control, however, uses the language “collectively or individually.” The use of the “or individually” phrasing contradicts the mutual agreement requirement under the definition.

Another area of confusion within the Act is between MCA §80-7-1005 (cooperative agreement) and §80-7-1006 (departmental responsibilities). In 1005(2), the departments must work with each other to coordinate their respective responsibilities. Section 1006 then details those responsibilities, which includes creating a list of species and identifying which agency has authority. The contradiction arises within the subsections of Section 1006. Subsection (1) demands the preparation of a list from the departments individually, yet under subsection (2) if certain invasive species are controlled by multiple agencies, then those agencies must clarify and coordinate their responsibilities. The use of a multi-agency approach in one section of the AIS

Act and an individual agency approach in another section creates uncertainty with the responsibility to list new or emerging species.

The final difficulty with the definition of invasive species (aquatic) under the Act stems from the inclusion of the words, “or is likely to cause harm.” This phrasing describes an emerging invasive species. Emerging species is not a defined term in any Montana statute or administrative rule pertaining to invasive species. As mentioned previously, emerging species control is time-sensitive. If an emerging aquatic species were to cross state boundary waters, the current multi-agency process under the Act could slow management and potentially create disputes regarding authorities, responsibilities, and mandate to control.

3. “Plant Pest” and Related Terms Analysis

This term represents the portion of invasive species that can affect plants and plant materials. There are multiple terms relating to plant pest that are to be analyzed.

The federal definition and Montana definition of “plant pest” are almost identical. The Montana definition uses language like “but not limited to” to broaden the species that can directly or indirectly injure or cause injury to a plant or plant product. The Montana definition also requires that the pests are established by departmental rule, resembling a similar structure as the AIS statutes, which all require a collaborative decision.

The Montana definition of “noxious weed” details different qualifications that define a noxious weed like: rendering land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses, or harm to native plant communities. The Montana definition lacks the broader, holistic qualifications found under the federal definition like: damage to natural resources, the public health, or the environment.

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The Montana definition of “noxious weed” is housed at the county level and instills an obligation upon the district weed boards once the department designates a weed by rule. In Montana, the Noxious Weed Management Fund statutes extend the definition of “weed/noxious weed” to include “crop weed,” which is simply a weed requiring research, evaluation, and education. Although the general definition of “noxious weed” is narrow in structure, the listing process is straightforward and publicized under the Montana Noxious Weed Management Plan. Thus, this definitional structure and listing process does not suggest the revision that the aquatic invasive species definition does.

The Federal Noxious Weed Act uses the term “undesirable plants” as a broader definition of noxious plant species. It also includes the term exotic and injurious, resembling that of the Endangered Species Act for animals. The Montana definition of “noxious weed” includes the word exotic, however, there is no definition of “exotic plant” in the MCA or ARM. The only statutory authority defining exotic is found in Vertebrate Pest Management statutes when describing “exotic wildlife.” As mentioned previously, “exotic” closely resembles “nonindigenous,” however does not apply holistically to invasive species. Thus, when speaking about “exotic” species, statutorily, it is only referring to wildlife and noxious weeds. A uniform term should be utilized to decrease the use of multiple terms.

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4. “Vertebrate Pest” and Related Terms Analysis

The term “vertebrate pest” and terms relating to it pose as a significant problem regarding management of these species due to the lack of authority granted under the definition. The Montana definition of “vertebrate pest” serves as a list rather than a descriptive definition. In terms of management authority, the vertebrate pest statutes describe a cooperative effort between federal agencies, state agencies, counties, associations, corporations, and individuals, as well as the department to promote the management and suppression of vertebrate pests. The Vertebrate Pest statutes, under §80-7-1101, resemble the Aquatic Invasive Species Act by detailing multiple authoritative bodies with management authority. However, they differ in that there is no mandate for how those controlling bodies will work together; something which the AIS Act includes, but does not specifically describe.

The difficulty with terms under Montana’s wildlife protection statutes arise with the definitions of “exotic wildlife,” “controlled exotic wildlife,” “noncontrolled exotic wildlife,” and “prohibited exotic wildlife.” All are associated with a respective list and pertain to species that are not native to Montana. The definition describes authoritative control by a commission and a department, creating a multi-faceted controlling body. While the commission and the department oversee “controlled exotic wildlife,” only the commission oversees “noncontrolled exotic wildlife.” The definition of “prohibited exotic wildlife” excludes the use of commission or department entirely and resembles the definition of “vertebrate pest” and its use of “species on a list.” The definition of “controlled species” provides no criteria for listing, instead those species are simply a living exotic species. The definitions for “noncontrolled species” and “prohibited species” also describe a living exotic animal, but include the designation that they can or cannot be sold, possessed, etc. Again, these definitions do not provide a set of criteria for listing an exotic species.

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The listing process for exotic species is well detailed in the Administrative Rules of Montana, §12.6.2225, and describes how the committee must use the best available science and information when designating a species on a particular list. These lists, however, still create confusion due to the lack of a concrete definition for the meanings of the list titles. What is mandated by controlled vs prohibited?

5. “Livestock” and Related Terms Analysis

The federal definitions relating to this term include “pest” and “livestock,” with “pest” is a species that can injure or cause disease in livestock. The Montana definition of “livestock” is a list including cattle, sheep, swine, horses, mules, and goats. The federal definition is much simpler and includes all “farm-raised animals.” Montana statutes provide a definition of feral swine, but lack a definition of feral horses; both of which are increasingly difficult species to manage in Montana and/or regionally. With no definition of feral horses or wild horses, the Department of Livestock lacks a clear directive regarding management. What then is the legal difference between a wild horse, such as the Pryor Mountain horses, or formerly kept and then “dumped” feral horses that do not belong to a historically protected herd or region?

Another concern is the Department’s use of the term “prohibited” to describe prohibited livestock pests. The term “prohibited” is used as a defined term under the Exotic Wildlife

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statutes to describe “prohibited species.” The use of this term in two different statutory schemes, and therefore with two different meanings, can create confusion.

6. “Management Areas” and Related Terms Analysis

Management areas and quarantines have different meanings depending on what type of species is at issue. For example, the term “quarantine” is most commonly associated with noxious weed management. However, the use of different terms for other types of species can create confusion, especially when dealing with noxious weeds. The use of the term “quarantine” seems to resonate with emergency situations when a plant pest becomes too great of a threat. The way other terms, such as “regulated areas” and “management areas,” are structured makes it seem like they can become “quarantines” to prevent the introduction or spread of quarantine pests. However, the definition of “quarantine” does not include a connection to these other related terms. The USDA’s definitions of “quarantine” and “regulated area” are related through the definition of “regulated non-quarantine pest” and “regulated quarantine pest.”

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7. “Department” and Related Terms Analysis

Aquatic invasive species, exotic wildlife, and public trust waters are controlled by the Montana Department Fish Wildlife and Parks.

Quarantine and pest management for aquatic invasive plants, noxious weeds, and vertebrate pests are controlled by the Department of Agriculture.

In addition to the Department of Fish, Wildlife, and Parks and the Department of Agriculture, aquatic invasive species are also controlled by the Department of Natural Resources and Conservation and the Department of Transportation under the Montana Invasive Species Act (MCA Title 80, Chapter 7, Part 10).

Livestock is controlled by the Department of Livestock under MCA Title 60, Chapter 7.

Forest diseases and pests, rangeland pests, and conservation districts are controlled by the Department of Natural Resources and Conservation.

Special districts are controlled by city-county governments under MCA Title 7, Chapter 11, Part 10.

Generally, “department” represents the controlling agency or authority for that category of invasive species. The difficulty with the terminology comes from the lack of clarity regarding who sits on the “commissions,” “boards,” and other such terms. The use of multi-agency frameworks does instill collaboration, but it also increases misunderstandings as to what agency will manage a species at a given time. The use of different governing bodies also creates misunderstandings in this way. For example, exotic wildlife species fall under the Department of Fish, Wildlife, and Parks management. Those statutes also describe a committee and a commission, both of which include a multitude of differing entities. This can create problems for laypeople who wish to report a sighting, inquire about information, etc.

D. Invasive Species Listing Processes in Montana

The listing process in Montana is a collaborative and complex task. Species are divided amongst the state and federal agencies.

The **Montana Department of Fish, Wildlife, and Parks** controls: (1) Aquatic Invasive Species; (2) Aquatic Noxious Weeds; (3) Exotic Wildlife; and (4) Nongame Wildlife.

The **Montana Department of Natural Resources and Conservation** controls Forest Diseases and Pests under MCA §76-13-301. The DNRC also has oversight authority in conjunction with FWP's authority over Aquatic Invasive Species and Weeds.

The **Montana Department of Agriculture** controls: (1) Noxious Weeds; (2) Vertebrate Pests; and (3) has some oversight authority of Aquatic Invasives and Weeds.

The **Montana Department of Livestock** controls: (1) diseases; (2) feral horses; and (3) feral swine.

Finally, the **Montana Department of Transportation** also collaborates with FWP, DNRC, and the Department of Agriculture regarding Aquatic Invasives and Weeds.

The processes for listing each category of invasive species is listed below.

1. Aquatic Invasive Species

Under the Montana Aquatic Invasive Species Act—Montana Code Annotated Title 80, Chapter 7, Part 10—the listing process is a cooperative agreement between the Department of Fish, Wildlife, and Parks (FWP), the Department of Agriculture, the Department of Natural Resources and Conservation (DNRC), and the Department of Transportation (DOT).

MCA §80-7-1005 provides for the cooperative agreement for invasive species detection and control and states:

(1) In order to implement, administer, and accomplish the purposes of this part, the departments, collectively or individually, shall enter into a cooperative agreement with each other or may enter into an agreement with any person with the appropriate expertise and administrative capacity to perform the obligations of the agreement. (2) Prior to entering an agreement with a person other than a department, the departments shall work in collaboration with each other to coordinate their respective responsibilities in order to further the purposes of this part. (3) A cooperative agreement may include provisions for funding to implement the agreement.

Furthermore, MCA §80-7-1006 provides for the departmental responsibilities and states:

(1) *The departments shall prepare a list of invasive species and identify those departments and other public agencies with jurisdiction over each species on the list. The jurisdiction of each department for the prevention and control of invasive*

species is according to the department's powers and duties as established by law. (2) For those invasive species under the jurisdiction of more than one department, the departments with jurisdiction through cooperative agreement, shall seek to clarify and coordinate their respective responsibilities. (3) Working in collaboration with each other, the departments, individually or collectively, shall develop and adopt an invasive species strategic plan or plans to accomplish the purposes of this part. *The plan or plans shall identify and prioritize threats and determine appropriate actions, in the following order of priority, related to: (a) public awareness and education; (b) prevention and detection of invasive species, including the use of invasive species management areas authorized under §80-7-1008 and the statewide invasive species management area established in §80-7-1015; (c) management, control, and restoration of infested areas; and (d) emergency response.* (4) The departments shall enforce quarantine regulations and measures imposed by law or rule in an invasive species management area established under §80-7-1008 and in the statewide invasive species management area established in §80-7-1015, including the mandatory inspection of any interior portion of a vessel or equipment that may contain water for the presence of an invasive species. (5) The departments may designate employees to carry out the provisions of this part. (6) The department of fish, wildlife, and parks shall authorize a request by another entity to operate a check station pursuant to this part if the entity agrees to the conditions of an agreement established by all parties, any cooperative funding requirements, and rules adopted under this part. The department of fish, wildlife, and parks retains oversight authority over the operation of a check station pursuant to this subsection. (7) The departments shall implement education and outreach programs that increase public knowledge and understanding of prevention, early detection, and control of invasive species.

2. Noxious Weeds

The designation of noxious weeds is located under Title 4, Chapter 5, Part 2 of the Administrative Rules of Montana. ARM §4.5.201 provides that:

(1) The department designates certain exotic plants listed in these rules as statewide noxious weeds under the County Weed Control Act §7-22-2101(5), MCA. All counties must implement management standards for these noxious weeds consistent with weed management criteria developed under §7-22-2109(2)(b), MCA of the Act.

The Department of Agriculture is responsible for determining management methods used for noxious weed control. These powers and duties are covered by MCA §7-22-2109, which states:

(1) In addition to any powers or duties established in the resolution creating a district weed board, the board may: (a) supervise a coordinator and other employees and provide for their compensation; (b) purchase chemicals, materials, and equipment and pay other operational costs necessary for implementing an effective noxious weed management program. The costs must be paid from the noxious weed fund. (c) determine what chemicals, materials, or equipment may

be made available to persons controlling weeds on their own land. The cost for the chemicals, materials, or equipment must be paid by the person and collected as provided in this part. (d) enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if the plant species spreads or threatens to spread into the state; (e) enter into cost-share agreements for noxious weed management; (f) enter into agreements with commercial applicators, as defined in 80-8-102, for the control of noxious weeds; (g) request legal advice and services from the county attorney; and (h) perform other activities relating to weed management. (2) The board shall: (a) administer the district's noxious weed management program; (b) establish management criteria for noxious weeds on all land within the district; and (c) make all reasonable efforts to develop and implement a noxious weed management program covering all land within the district owned or administered by a federal agency.

The Department of Agriculture has the authority to quarantine areas to prevent the spread of invasive plants. This authority is granted under MCA §80-7-402 and states:

The department may adopt rules concerning: (1) intrastate and interstate quarantines; (2) procedures to investigate and enforce quarantines to prevent the introduction or spread of plant pests, plants capable of spreading plant pests, plants defined as noxious weeds under §7-22-2101, MCA, and other exotic plants defined by department rule as plant pests; (3) pest management standards and procedures for surveying and controlling plant pests; (4) procedures for the introduction of plant pests and biological control agents into the state; and (5) procedures for the recovery of expenses and imposition of penalties.

3. *Exotic Wildlife — Non-controlled, Controlled, and Prohibited*

Importation, Introduction, and Transplantation of wildlife is controlled by the commission and the ability to list an exotic species is found under the rulemaking authority of MCA §87-5-704(3), which states:

(a) the commission may adopt rules to implement 87-5-705 through 87-5-709 and 87-5-712 regarding the importation, possession, and sale of exotic wildlife, including adoption of a list of controlled exotic wildlife and a list of prohibited exotic wildlife. The commission may by rule add to the list of noncontrolled exotic wildlife provided in 87-5-706. The department of livestock may not issue import permits for exotic wildlife on a list of controlled exotic wildlife or prohibited exotic wildlife without authorization from the department.

Recommendations of animals to be placed on the noncontrolled, controlled, or prohibited exotic wildlife list is given by the classification review committee, which consists of at least one representative from: (a) the department; (b) the department of public health and human services; (c) department of livestock; (d) the department of agriculture; (e) a business that breeds or

exhibits exotic wildlife; and (f) the general public who has an interest in fish or wildlife. MCA §87-5-708.

Because this is a multi-agency committee, consultation is required with the other departments. MCA §87-5-716 states,

The commission and the department shall consult with the departments of agriculture, public health and human services, and livestock in all matters relating to the control of wildlife species and exotic wildlife that may have a harmful effect on agricultural production or livestock operations in the state or that may pose a risk to human health or safety.

The designation of exotic wildlife is found under Title 12, Chapter 6, Part 22 of the Administrative Rules of Montana. ARM §12.6.2225 provides that:

(1) The classification review committee described in §87-5-708, MCA, shall consider petitions for species classification. *Any individual, government agency, or interested group may petition the classification review committee to recommend to the commission classification of a species.* (2) The classification review committee must make its recommendations based on the best available information and scientific knowledge of the following: (a) the environmental impacts caused by the animal if it is released or escapes from captivity, including ecological and economic impacts; (b) the risk the animal would pose to the health or safety of the public, wildlife, livestock, domestic animals and agriculture; and (c) the ability of a person to readily control and contain the animal in captivity. (3) *Based on recommendations made by the classification review committee, the commission may classify exotic wildlife to either a non-controlled, controlled, or prohibited list.* The commission shall adopt exotic wildlife classifications as administrative rules, amendments, or repeals according to the Montana Administrative Procedure Act. (4) Species of exotic wildlife may not be imported into Montana unless the following occur: (a) the exotic wildlife species has been classified by the commission or by listing in state statutes; (b) the department has issued the required permits for possession of exotic wildlife species classified as non-controlled, controlled or prohibited; and (c) the person has obtained authorization for importation from the Department of Livestock pursuant to Title 81, Chapter 2, Part 7, MCA.

4. Vertebrate Pests

The Department of Agriculture has the authority to control vertebrate pests and can make decisions for management under Title 80, Chapter 7, Part 11 of the Montana Code Annotated.

MCA §80-7-1101 – Management is: (a) the correct identification of a vertebrate pest; (b) recognition of its biology and environmental needs; (c) assessment of the pest's damage, injury, or nuisance to agriculture, industry, or the public prior to selecting and implementing any integrated or individual control methods to reduce, prevent, or suppress these damages, nuisances, or injuries; and (d)

evaluating the effects of these control methods. (2) This section does not apply to non-game wildlife managed or protected subject to Title 87, Chapter 5, Part 1, MCA.

Department to operate vertebrate pest management program:

(1) The department may establish and operate organized and systematic programs for the management and suppression of vertebrate pests. Vertebrate pests are defined as jackrabbits, prairie dogs, ground squirrels, pocket gophers, rates, mice, skunks, raccoons, bats, snakes, voles, and depredatory and nuisance birds. Depredatory and nuisance birds are defined as blackbirds, cowbirds, starlings, house sparrows, and feral pigeons, when they are injurious to agriculture, other industries, and the public. For this purpose, the department may enter into written agreements with appropriate federal agencies, other state agencies, counties, associations, corporations, or individuals covering the methods and procedures to be followed in the management and suppression of these vertebrate pests, the extent of supervision to be exercised by the department, and the used and expenditure of funds appropriated, when this cooperation is necessary to promote the management and suppression of vertebrate pests. MCA §80-7-1101.

E. Invasive Species Lists Per Agency

1. Montana Fish, Wildlife, and Parks

AIS Species: Amphibians – American Bullfrog (detected); Crustaceans – Spiny Waterflea (undetected), Fishhook Waterflea (undetected), and Rusty Crayfish (undetected); Fishes – Bighead Carp (undetected), Black Carp (undetected), Grass Carp (undetected), Silver Carp (undetected), Round Goby (undetected), Ruffe (undetected), Tench (undetected), Zander (undetected), and Northern Snakehead (undetected); Mammals – Nutria (undetected); Molluscs – New Zealand Mudsail (present), Faucet Snail (detected), Red-Rim Melania (detected), Quagga Mussel (detected), Zebra Mussel (detected), Asian Clam (undetected), and Chinese Mysterysnail (undetected); Parasites and Pathogens – Whirling Disease (present); IHN Virus (detected); Asian Tapeworm (undetected), Microsporidian Parasite (undetected), and VHS Virus (undetected); Plants – Eurasian Watermilfoil (present), Flowering Rush (present), Curlyleaf Pondweed (present), Fragrant Waterlily (present), Hydrilla (undetected), Brazilian Elodea (undetected), Parrotfeather Milfoil (undetected), and Yellow Floating Heart (undetected).

Noncontrolled Exotic Wildlife: list of non-controlled species: (1) The following mammals are classified as non-controlled species: (a) African pygmy hedgehog—*Atelerix albiventris* and *Atelerix algirus*; (b) Degu (bush-tailed rat)—*Octodon degus*; (c) Jungle Cat—*Felis chaus*; (d) Serval cat—*Leptailurus serval*; (e) Sugar gliders—*Petaurus breviceps*; Two-toed sloth—*Choloepus didactylus*; (g) Wallaby (Bennets)—*Macropus rufogriseus*; and (h) Wallaby (Tamar) —*Macropus eugenii*. (2) The following amphibians are classified as non-controlled species: (a) Cameroon volcano frog—*Xenopus amieti*; (b) Eritrea clawed frog—*Xenopus clivii*; (c) Hyperoliidae family; and (d) Leptodactylidae family. (3) The following arachnids are classified as non-controlled species: (a) Emperor scorpion—*Pandinus imperator*; and (b)

Tanzanian red-claw scorpion—*Pandinus cavimanus*. (4) The following crustaceans are classified as non-controlled species: (a) Terrestrial hermit crabs—*Coenobita* spp. ARM §12.6.2205.

Controlled Exotic Wildlife: list of controlled species: (1) The following birds are classified as controlled species: (a) Barbary Falcon—*Falco perigrinoides*; (b) Black-Crowned Crane—*Balearica pavonina*; (c) Black-Necked Crane—*Grus nigricollis*; (d) Blue Crane—*Anthropoides paradiseus*; (e) Brolga—*Grus rubicunda*; (f) Buff-Banded Rail—*Gallirallus philippensis*; (g) Common Crane—*Grus grus*; (h) Demoiselle Crane—*Anthropoides virgo*; (i) Giant Wood Rail—*Aramides ypecaha*; (j) Grey-Crowned Crane—*Balearica regulorum*; (k) Hooded Crane—*Grus monacha*; (l) Red-Crowned Crane—*Grus japonensis*; (m) Sarus Crane—*Grus antigone*; (n) Siberian Crane—*Grus leucogeranus*; (o) Taita Falcon—*Falco fasciinucha*; (p) Wattled Crane—*Grus carunculata*; (q) White-breasted Waterhen—*Amaurornis phoenicurus*; (r) White-naped Crane—*Grus vipio*; and (s) exotic waterfowl in the family *Anatidae*. (2) The following crustaceans are classified as controlled species: (a) Pacific White Shrimp—*Pannaeus (Litopenaeus) vannamei*. (3) The following fish are classified as controlled species: (a) Coho salmon—*Oncorhynchus kisutch*; (b) Goldfish—*Carassius auratus* (for use in outdoor ponds); and (c) Koi—*Cyprinus carpio* (for use in outdoor ponds). (4) The following mammals are classified as controlled species: (a) Wallaroo—*Macropus robustus*. ARM §12.6.2208.

List of prohibited species: (1) The following amphibians are classified as prohibited species: (a) African clawed frog—*Xenopus laevis*; and (b) Northern American bullfrog—*Rana catesbeiana*. (2) The following crustaceans are classified as prohibited species: (a) Rusty crayfish—*Orconectes rusticans*. (3) The following fish are classified as prohibited species: (a) Bighead carp—*Hypophthalmichthys nobilis*; (b) Black carp—*Mylopharyngodon piceus*; (c) Eurasian Ruffe—*Gymnocephalus cernuus*; (d) Grass carp—*Ctenopharyngodon idella*; (e) Round goby—*Neogobius melanostomus*; (f) Silver carp—*Hypophthalmichthys molitrix*; (g) Snakehead fish—genera *Channa* and *Parachanna* (29 species); (h) Walking catfish—*Clarias batrachus*; (i) White perch—*Morone americana*; and (j) Zander (European pikeperch)—*Sander lucioperca*. (4) The following mammals are classified as prohibited species: (a) African Soft Fur Rat/Natal Rat—*Mastomys natalensis*/Natal multimammate mouse; (b) Aotidae Family (Night and Owl Monkeys); (c) Argali Sheep—*Ovis ammon*; (d) Atelidae Family (Howlers and Spider Monkeys); (e) Brush-tailed possum—*Trichosurus vulpecula*; (f) *Callitrichidae* Family (Marmosets and Tamarins); (g) *Cebidae* family (new world primates); (h) *Cercopithecidae* Family (old world monkeys); (i) *Hyaenidae* Family (hyenas); (j) *Hylobatidae* Family (gibbons); (k) Natal Rat/African Soft Fur Rat—*Natal multimammate mouse*/*Mastomys natalensis*; (l) Nutria—*Myocastor coypus*; (m) *Pitheciidae* Family (Titis and Saki Monkeys); (n) *Pongidae* Family (apes); (o) Short-tailed opossum—*Monodelphis domestica*; (p) Small spotted genet—*Genetta genetta*; (q) Southern flying squirrel—*Glaucomys volans*; (r) Transcaspian urial sheep—*Ovis aries vignei*; and (s) Virginia opossum—*Didelphis virginiana*. (5) The following mollusks are classified as prohibited species: (a) New Zealand mudsnail—*Potamopyrgus antipodarum*; (b) Quagga mussel—*Dreissena bugensis*; and (c) Zebra mussel—*Dreissena polymorpha*. (6) The following reptiles are classified as prohibited: (a) African rock python—*Phyton sebae*; (b) *Alligatoridae* Family; (c) Amethystine python—*Morelia amethystina*; (d) Boomslang—*Dispholidus typus*; (e) Burrowing asps (all species in family *Atractaspididae*); (f) Coral snakes (all species in family *Elapidae*); (g) Cobras (all species in family *Elapidae*); (h) *Crocodylidae* Family; (i) Green Anaconda—*Eunectes marinus*; (j) Indian python (including the Burmese python)—*Python*

molurus; (k) Kraits (all species in family *Elapidae*); (l) Mambas (all species in family *Elapidae*); (m) Pit vipers and true vipers (all species in family *Viperidae* except species indigenous to Montana); (n) Red-eared slide—*Trachemys scripta elegans*; and (o) Reticulated python—*Python reticulatus*. (7) The following birds are classified as prohibited: (a) California quail—*Callipepla californica*; and (b) Gambel's quail—*Callipepla gambelii*. ARM §12.6.2215.

2. Montana Department of Agriculture

Priority 1A Weeds: (1) These weeds are not present or have a very limited presence in Montana. Management criteria will require eradication if detected, education, and prevention: (a) Yellow starthistle (*Centaurea solstitialis*); (b) Dyer's woad (*Isatis tinctoria*); (c) Common reed (*Phragmites australis* ssp. *Australis*); and (d) Medusahead (*aeniatheum caput-medusae*). ARM §4.5.206.

Priority 1B Weeds: (1) These weeds have limited presence in Montana. Management criteria will require eradication or containment and education: (a) Knotweed complex (*Polygonum cuspidatum*, *P. sachalinense*, *P. x bohemicum*, *Fallopia japonica*, *F. sachalinensis*, *F. x bohemia*, *Reynoutria japonica*, *R. sachalinensis*, and *R. x bohemia*); (b) Purple loosestrife (*Lythrum salicaria*); (c) Rush skeletonweed (*Chondrilla juncea*); (d) Scotch broom (*Cytisus scoparius*); and (e) Blueweed (*Echium vulgare*). ARM §4.5.207.

Priority 2A Weeds: (1) These weeds are common in isolated areas of Montana. Management criteria will require eradication or containment of these weeds where less abundant. Management shall be prioritized by local weed districts: (a) Tansy ragwort (*Senecia jacobaea*, *Jacobaea vulgaris*); (b) Meadow hawkweed complex (*Hieracium caepitosum*, *H. praealtum*, *H. floridundum*, and *Pilosella aurantiaca*); (c) Orange hawkweed (*Hieracium aurnatiacum*, *Pilosella aurantiaca*); (d) Tall buttercup (*Ranunculus acris*); (e) Perennial pepperwood (*Lepidium latifolium*); (f) Yellowflag iris (*Iris pseudacorus*); (g) Eurasian watermilfoil complex (*Myriophyllum spicatum* and *M. sibiricum*); (h) Flowering rush (*Butomus umbellatus*); and (i) Common buckthorn (*Rhamnus cathartica*). ARM §4.5.208.

Priority 2B Weeds: (1) These weeds are abundant in Montana and widespread in many countries. Management criteria will require eradication or containment of these weeds where less abundant. Management shall be prioritized by local weed districts: (a) Canada thistle (*Cirsium arvense*); (b) Field bindweed (*Convolvulus arvensis*); (c) Leafy spurge (*Euphorbia esula*); (d) Whitetop (*Cardaria draba*, *Lepidium draba*); (e) Russian knapweed (*Acroptilon repens*, *Rhaponticum repens*); (f) Spotted Knapweed (*Centaurea diffusa*); (h) Dalmatian toadflax (*Linaria dalmatica*); (i) St. Johnswort (*Hypericum perforatum*); (j) Sulfur cinquefoil (*Potentilla recta*); (k) Common tansy (*Tanacetum vulgare*); (l) Oxeye daisy (*Leucanthemum vulgare*); (m) Houndstongue (*Cynoglossum officinale*); (n) Yellow toadflax (*Linaria vulgaris*); (o) Saltcedar (*Tamarix* spp.); (p) Curlyleaf pondweed (*Potamogeton crispus*); and (q) Hoary alyssum (*Berteroa incana*). ARM §4.5.209.

Priority 3 regulated plants (Non-Montana listed noxious weeds): (1) These regulated plants have the potential to have significant negative impacts. The plant may not be intentionally spread or sold other than as a containment in agricultural products. The state recommends research, education, and prevention to minimize the spread of the regulated plant: (a) Cheatgrass (*Bromus*

tectorum); (b) Hydrilla (*Hydrilla verticillata*); (c) Russian Olive (*Elaeagnus angustifolia*); (d) Brazilian waterweed (*Egeria densa*); and (e) Parrot feather watermilfoil (*Myriophyllum aquaticum* or *M. brasiliense*). ARM §4.5.210.

3. Montana Department of Livestock

Classification of prohibited and restricted species: (1) The department finds that the following species, hybrids, or viable gametes (ova and semen), are detrimental to existing wildlife and their habitats through nonspecific genetic dilution, habitat degradation or competition caused by feral populations of escaped game farm animals. The following is a list of prohibited species: (a) In the family *Bovidae*, all members of the following genera and hybrids thereof: (i) Subfamily *Caprinae*: (A) *Rudicapra* (*chamois*); (B) *Hemitragus* (*tahr*); (C) *Capra* (goats, ibexes—except domestic goat, *Capra hircus*); (D) *Ammotragus* (Barbary sheep or *Aoudad*); and (E) *Ovis* (only the mouflon species, *Ovis musimon*); (ii) Subfamily *Hippotraginae*: (A) *Oryx* (oryx and gemsbok); and (B) *Addax* (addax); (iii) Subfamily *Reduncinae*: (A) *Redunca* (reedbucks); (b) In the family *Cervidae*, all of the following species and hybrids thereof: (i) Red Deer (*Cervus elaphus elaphus*); (ii) Axis deer (*Axis axis*); (iii) Ruse deer (*Cervus timorensis*); (iv) Sambar deer (*Cervus unicolor*); (v) Sika deer (*Cervus nippon*); and (vi) Roe deer (*Capreolus capreolus* and *Capreolus pygargus*); (c) All wild species in the family *Suidae* (Russian boar, European boar) and hybrids thereof; and (d) In the family *Tayassuidae*, the collared peccary (javelina) (*Tayassu tajacu*) and hybrids thereof. ARM §12.6.1540.

F. Emerging Species and Species of Potential Concern

There is no direct listing process for emerging species or species of potential concern within the state of Montana, however, agencies recognize the possible environmental, ecological, and economical threat these species present. This section will address how state agencies establishes a “watch list” or “species of concern list” and the process after the lists are created. It should be noted, that these lists have no statutory or regulatory authority. Instead, they serve as a reference for what invasive species should be monitored as a potential threat or concern and if they have a potential of being formally listed in Montana.

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FWP created a list of “species of concern” with the Montana Natural Heritage Program, which covers native amphibian, bird, fish, mammal, reptile, and invertebrate species that are facing potential declines due to a multitude of factors, one being invasives. This specific study considers federally listed species on the Endangered Species List. Federally, the USDA collaborates annually with the Cooperative Agricultural Pest Survey to establish a “Priority Pest List”, which includes a “Commodity” and “Economic and Environmental” list. The DNRC keeps a profile of “species of concern” on file, however does not release a regulated or statutory list like other agencies.

These departmental lists are published for the public’s knowledge, however, have no place in the statutory schemes under the MCA due to the lack of language detailing a listing process or management process for emerging species in Montana. A possible solution could be to include language into the already existing emergency response statutes, like those under the AIS Act. Overall, a continued effort to include such language would greatly advance the fight against such species.

IV. RECOMMENDATIONS

This section will result from table talk findings with the List Committee in Helena, Montana.

V. CONCLUSION

This section will result from table talk findings with the List Committee in Helena, Montana.

A STUDY OF STATUTES: WHITE PAPER ON THE INCONSISTENCIES OF
INVASIVE SPECIES STATUTORY AUTHORITIES AND
IMPLEMENTATION IN MONTANA

DRAFT



A MONTANA INVASIVE SPECIES COUNCIL PROJECT
DRAFT AUGUST 2019

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I. ABSTRACT

This White Paper will analyze the current Montana invasive species statutory schemes and the implementation of those systems by utilizing case studies. Any issues or discrepancies within the statutes and/or regulations is to be analyzed for clarity and continuity. Each presented issue will provide background, an in-depth view of the current statutory or regulatory language, and a case study pertaining to that specific category of invasive species. While Montana has an abundance of statutory and regulatory authority to deal with invasive species. The goal of this White Paper is to expose potential weaknesses specific to these authorities as well as implementation practices, and to provide clarity moving forward.

II. BACKGROUND & PROBLEM STATEMENT

A. *Introduction of Invasive Species Project*

In 2018, the Montana Invasive Species Council (MISC) undertook a comprehensive review of federal, state, local and tribal laws and regulations which pertain to the management of invasive species within the state of Montana. The purpose of the review, which culminated in a Compendium of current Invasive Species Laws was to:

1. provide managers and lawmakers with a systematic compilation of the laws and regulations relevant to the management of all-taxa invasive species in the state;
2. provide information and ideas to improve funding, authority, and management responsibility; and
3. provide the necessary information for the council to evaluate the need for a comprehensive Montana Invasive Species Act, as outlined in the 2016 Montana Invasive Species Framework

The Summit was intended to provide a forum for invasive species managers, county leaders, local and tribal governments, private landowners and other stakeholders to evaluate law review findings; hear panelists discuss different models from across North America; suggest possible actions and solutions; provide the latest science; and develop recommendations to address invasive species regulatory issues. Sessions were developed based on findings from the law review, which included the following topics: 1) all taxa invasive species listing; 2) managing pathways instead of species; 3) addressing species with economic benefits but environmental impacts; 4) aquatic invasive plant management in Montana; 5) regulations and enforcement of invasive species; and 6) building political champions.

The two day-event, held November 15-16 in Helena, featured national and state leaders and technical experts who provided insight and best practices on invasive species prevention and management, with a focus on laws and regulations. Each panel produced a set of possible

outcomes moving forward. One outcome, from both the all-taxa invasive species listing panel and the managing pathways panel, was to review current listing processes and compare those with alternative jurisdictions' listing processes with the goal of identifying approaches to improving the status quo.

The subsequent sections of this White Paper will utilize the teachings from the Summit panels by detailing the gaps in the statutory schemes to reveal the difficulties and shortcomings identified in current efforts to prevent and manage invasive species in Montana.

B. Difficulties with the Statutory Schemes & Enforcement

The difficulties identified in the state of Montana result from the complex structure of the invasive species statutes and the inconsistencies that exist between them. Depending on the type of invasive species, one is required to explore the Montana Code Annotated (MCA) to locate specific statutory authority. Some authorities are buried within multiple tiers of statutes unrelated to the type of species they control. For example, the statutes for aquatic invasive species control are located under Title 80: "Agriculture" and Chapter 7: "disease, pest, and weed control." Managers and stakeholders alike can have a difficult time simply locating the passages relevant to the invasive species issue they are attempting to tackle.

Some of the invasive species statutes lack any language relating to direct management by a department, weakening the statutory schemes and creating confusion amongst involved departments. Rather than being authoritative, the statutes—particularly those in the Aquatic Invasive Species Act—are circular and lack definitive control.

This White Paper is not to say there are not invasive species statutes within the Code to date. In fact, Montana has an abundance of statutory and regulatory authority to deal with invasive species. Rather, the goal of this White Paper is to expose the potential weaknesses of current authorities and the implementation of them and provide clarity moving forward.

III. IDENTIFIED ISSUES

A. Issue 1: Management Authority under the AIS statutes

1. Background

Aquatic Invasive Species Statutory Scheme:

Title 80, Chapter 7, Part 10 houses the Montana Aquatic Invasive Species Act. The purpose of the Act, found in MCA §80-7-1002, states:

The purpose of this part is to establish a mechanism for Montana to take concerted action to detect, control, and manage invasive species including preventing further introduction, importation, and infestation, by educating the public about the threat of these species, coordinating public and private efforts and expertise to combat these species, and authorizing the use of check stations to prevent the movement of invasive species from infested areas to uninfested areas

to protect the state's economy, environment, recreational opportunities, and human health for the benefit of all Montanans.

As discussed in the *List Review Committee White Paper*, one of the major problems with the Aquatic Invasive Species Act ('AIS Act') is the use of contradictory language between sections. For example, subsection (1) of Section 1005 uses the phrase, "collectively or individually" to mandate the departments to enter into a cooperative agreement. Yet, the following subsection states that each department shall work in collaboration with each other to coordinate their respective responsibilities. The use of the phrase "collectively or individually" weakens the collaborative purpose by allowing a department to operate individually. By doing so, other AIS processes are unclear. How are species listed as AIS? Where does it state that Montana Fish, Wildlife and Parks (FWP) has overriding authority for AIS management?

Another problem with the statutory language of the AIS Act, is found under Section 1006. The use of "collectively or individually" is used again in subsection (3) to describe the development of a strategic plan related to public awareness, prevention and detection, management and emergency response. Allowing a department to decide this individually again weakens the idea of a collaborative approach. Subsection (2) of Section 1006 details how the departments with jurisdiction shall clarify and coordinate responsibilities for invasive species under the control of more than one department. If the language was clarified and shortened, no invasive species would be under the authority of multiple departments. Instead, one department—for example, FWP—would have controlling authority over Eurasian Watermilfoil, which would be agreed upon during the collaboration stage. This has led to confusion about who manages aquatic invasive plants on the ground.

Section 1008 of the Act describes invasive species management areas. Rather than managing individual species, the AIS statutes call for management via designated areas. Although there is no inherent issue with this approach to management, each department can create and publish a list of invasive species within the state, suggesting a species-driven approach to management. The statutes provide no clear listing process other than the mandate for the departments to create such lists under Section 1006 (*see List Review Committee White Paper* for more information). However, the creation of the lists does not grant management authority, rather it provides what department will oversee it. Section 1008, which has management authority, does not mention the departmentally-created lists within any subsection, promoting the location-driven approach rather than management via species or pathways.

Agency Perceptions Regarding Statutory Scheme:

During the Montana Invasive Species Summit in 2018, the Montana Department of Agriculture (MDA) specified that AIS control is within Title 80 of the Montana Code Annotated because MDA had broad quarantine authority involving plant pests prior to the AIS act, thus when it was created, AIS was under MDA's control. However, when invasive mussels (*Dreissena polymorpha* and *D. bugensis*) became a program focus in the mid-2000s, MDA needed to transfer responsibilities to FWP, which was the rationale for the initial interagency Memorandum of Understanding (MOU) between MDA, FWP, Department of Natural Resources and Conservation (DNRC) and the Department of Transportation (MDOT). The problem is that water is a shared resource, so what department has clear jurisdiction? And further if DNRC

manages water quantity and resources broadly, but FWP manages the fish and wildlife in those waters, where is this explicitly stated?

Another concern occurs in instances when a controlling agency was not present to deal with a state-wide problem. During the Summit, the agency panelists stressed the importance of the multiple agency approach, however, did not mention its flaws; particularly how the multi-agency process neglects to include clear directives for the individual agencies. They focused on how in limiting the decision-making process to one agency this would exclude the voice and expertise of the other controlling agencies. Although the multi-agency process poses as a strength, the weaknesses in the statutes could potentially weaken the success of the entire AIS control and management process.

Local Authorities' Responsibilities:

To report an AIS sighting, a person can contact either FWP, MDA, or their local Weed Coordinator or Weed District. The Administrative Rules of Montana pertaining to Quarantines and Pest Management include local involvement in the inspection responsibilities. Section 4.12.1301 defines an Accredited Certifying Official as “a federal, state, *or county* official accredited to perform phytosanitary inspections and sign phytosanitary certificates for commodities meeting phytosanitary requirements.” This provision grants county officials’ responsibilities in the management of AIS and quarantine authority if the Department so chooses. Another provision detailing local responsibility is found within the AIS Act, §80-7-1006. Subsection (5) allows the departments to designate employees to carry out the provisions of this section if they choose. Subsection (6) mandates the departments to authorize a request by another entity to operate a check station if the entity agrees to the conditions of an agreement established by all parties. For example, in 2018, the Confederated Salish and Kootenai Tribes aided in operating the Ravalli Check Station along Highway 93. Another local entity that helped operate a check station in 2018 was the Garfield County Conservation District at the Flowing Wells Check Station. Although local entities and tribes are aiding in vessel checks, the lack of delegated authority to enforce the AIS Act and its regulations still poses as an issue, particularly amongst the tribes which should have a voice in the AIS program and its management. Where does the responsibility extend? What type of authority do the tribes have and should have in the AIS program?

Vectors:

The National Invasive Species Information Center describes pathways as the means and routes by which invasive species are introduced into new environments; they can be either natural or man-made. Natural pathways include wind, currents, and other forms of natural dispersal that can bring species to a new habitat. Man-made pathways are those which are created or enhanced by human activity and can be intentional or unintentional. Intentional man-made pathways result from deliberate movement of a species by humans outside of its natural range. Unintentional man-made pathways are the inadvertent movement of species as a byproduct of some other human activity. The National Invasive Species Council (NISC) defines “vector” as a biological pathway for a disease or parasite and is not completely synonymous with the broader definition of a pathway. Currently, Montana does not provide a definition of pathway or vector within the invasive species statutes. The definition for “invasive species” includes the term “pathogen,”

which is a related term. Without the inclusion of pathway and vector in statute or regulation, the current scheme lacks management authority for vectors that can spread via pathways such as through hay and firewood. This species-by-species approach lacks the ability to address entire vectors of pathways of movement to prevent the introduction and spread of invasive species.

HB 411 and Its Complications:

During the 2019 Montana Legislative Session, House Bill 411 addressed funding for the AIS statutes. Most of the sections updated language or section numbers relating to the invasive species account and invasive species fund. A few sections are worth noting, including Section 1: Aquatic Invasive Species Prevention Pass for Nonresident Vessels – Rulemaking; and Section 4: Registration Fees of Vehicles and Vessels – Certain Vehicles Exempt From Registration Fees – Disposition of Fees.

Section 1 states;

(1) In order for a motorized vessel exempt from registration in Montana pursuant to 61-3-321 or a non-motorized vessel owned by a nonresident to launch on the waters of this state, the operator must possess an aquatic invasive species prevention pass purchased for the vessel, available for inspection either in physical form or as an electronic copy at the request of a warden, another officer, or an employee of the department. The pass must include a description of the vessel for which it was purchased. (2)(a) The annual fee for an aquatic invasive species prevention pass purchased pursuant to this section is: (i) \$10 for a non-motorized vessel; (ii) and \$30 for a motorized vessel. (b) The pass expires at the end of each calendar year and is not transferable between vessels. (3) Fees collected pursuant to this section must be deposited in the invasive species account established in 80-7-1004. (4) The department may adopt rules to implement the provisions of this section. (5) the provisions of this section do not apply to a motorized vessel owned or controlled by the United States or any state, county, city, special district as defined in 18-8-202, or tribal government or to a motorized vessel that meets the description of property exempt from taxation under 15-6-201(1)(d), (1)(n), or (1)(o), or 15-6-215. (6) For the purposes of this section, the term “non-motorized vessel” includes catamarans, drift boats, kayaks, rafts, and sailboats.

Section 1 specifically exempts canoes from the definition of “non-motorized vessel.” This creates a problem in deciding what vessels require an inspection at a check station. If canoes are excluded from the definition, then how will they be enforced? How are they defined under statute? This problem also extends to other non-motorized vessels that are also required to stop at a check station for inspection—i.e. Stand Up Paddleboards.

In terms of implementation, Section 1 uses the prevention pass like a fishing license instead of a sticker that is visible to all parties. This requires game wardens and department staff to physically pull over boaters and vessel owners to request proof of purchase. This is unlike other

AIS user fee structures and will likely be difficult to enforce, leading to a possible reduction in the amount of funds projected from this category.

Section 4 increased the one-time registration fees for motorboats, sailboats, personal watercrafts, and motorized pontoons and designated the amount from each fee that would be deposited into the invasive species account. The addition of these sections will create revenue for the state, however, the language, especially between motorized and nonmotorized vessels, can pose as a challenge. *See Issue 2 – AIS Enforcement & Penalties.*

Case Study – Flowering Rush

*Case Study information to be drafted after MISC meeting in Helena, MT.

B. Issue 2: AIS Enforcement & Penalties

1. Background

Drive-Bys:

Currently, the AIS Act includes two provisions detailing enforcement authority for offenses pertaining to the introduction and transport of aquatic invasive species. MCA §80-7-1014 describes the general penalty for both negligently, which is listed as a misdemeanor, and purposely or knowingly, which is listed as a felony, violating the AIS Act. Under this provision, authoritative officials may give a warning upon the offender if it best serves the public interest. The other provision with enforcement authority is MCA §80-7-1019. This provision discusses drive-bys and states:

A peace officer may (1) stop the driver of a vehicle transporting a vessel or equipment on receiving a complaint or observing that the driver failed to stop at a check station as required under this part; (2) upon particularized suspicion that a vessel or equipment is infested with an invasive species, require the driver of the vehicle transporting a vessel or equipment to submit the vessel or equipment to an inspection. The peace officer may conduct mandatory inspections of any interior portion of the vessel or equipment that may contain water for compliance with this part and rules adopted under this part only if the peace officer obtains a search warrant or the vessel or equipment is physically located within the boundaries of an invasive species management area established under MCA §80-7-1008 or the statewide invasive species management area established under MCA §80-7-1015 and use of mandatory inspections has been included in quarantine measures; and (3) cite a person for a violation of this part.

Negligently introducing AIS into the state can result in a \$500 fine, while knowingly introducing AIS in the state can result in a \$5000 fine. The structure of the fines is determined by a bonding committee comprised of three judges and requires the bond to be determined by check station statistics and need. Although there are consequences for failing to stop at a check station, owners of vessels still drive by and often proceed

without any citation or fine. While enforcement has increased in recent years, an issue identified is the lack of deterrent that an \$85 fee provides passing motorists; this fee was set by the bonding judge committee and has been identified as a concern by many stakeholders. Advertising the consequences of drive-bys might help to educate vessel owners and showcase the gravity of this type of offense. Also, having a clear process of how the bonding committee make the decision about the fine, and being able to weigh in on that process/decision would improve future penalty deliberations on invasive species enforcement.

Pull the Plug:

‘Pulling the plug’ is encouraged as a mitigation technique for preventing the spread of AIS in the Clean, Drain, Dry campaign within the state. It encourages boat owners to pull the plug and keep it out while they tow their watercraft. Although “pulling the plug” is not mandated in statute or regulation and therefore not mandated by statute, Resource Protection Rules require that reasonable measures are taken to dry or drain all compartments or spaces that hold water, including emptying bilges, applying absorbents, and ventilation. *ARM §12.5.706*. Areas subject to inspection on a vessel include but are not limited to the exterior of the vessel, livewells, bait buckets, ballast tanks, bilge areas, and the trailer. Meaning that the drain plugs on a vessel can also be inspected and thus are subject to enforcement if not cleaned and drained properly. In other jurisdictions, ‘pull the plug’ rules have assisted with increasing enforceability and ensuring compliance with Clean Drain Dry rules to prevent the spread of AIS as it is easily verified by inspectors, game wardens and program staff upon a visual inspection.

Other states, like Minnesota, utilize “pull the plug” laws to enforce the Clean, Drain, Dry campaign. In 2016, the MISC proposed mandating “pull the plug” for all watercrafts leaving waterbodies. The mandate was rescinded and the requirement to “pull the plug” was never implemented in statute or regulation. Currently, the FWP has the authority to incorporate “pull the plug” in regulation if they see fit. Because the language “pull the plug” is not detailed in regulation or statute, some vessel owners are unaware of the suggestion to keep it pulled while transporting the vessel. The inclusion of this language in statute or regulation may help clarify this confusion, especially if the phrasing was advertised at check stations.

Non-Resident Fees:

HB 411 will require the final burden of funding the AIS program to be placed on dam operators, boaters, and anglers. The funding structure will be implemented as follows: the bill will lower the AIS Prevention Pass rate, while requiring an annual fee on motorized and nonmotorized boats. Finally, some lodging fee funds will transfer to the AIS fund and funding from the state-owned hydro-powered facilities will decrease.

After HB 411 was passed during the 2019 Legislative Session, fees for nonresident vessel owners increased. Out-of-state vessel owners and operators are required to purchase an AIS prevention pass—\$30 for motorized vessels and \$10 for nonmotorized vessels. Again, direct advertisement of these new fees may help out-of-state visitors to stop at check stations, especially since the fee increased in the recent session. The process for nonresidents should be

clarified to avoid the use of enforcement officials and the citation in general. Further, the current plan to implement this rule will be similar to the fishing license system, which is a printed receipt that the angler receives. This could lead to enforcement and compliance issues if the AIS prevention pass is not easily identifiable by watercraft inspectors, game wardens, program staff and the general public. It could also lead to a reduction in anticipated revenue from this fee. Other jurisdictions have implemented this user fee in the form of a sticker that goes on the vessel to increase visibility, enforceability and compliance.

Motorized v. Non-motorized:

Vessel is defined under *MCA §61-1-101(92)*, which states: “vessel means every description of watercraft, unless otherwise defined by the department, other than a seaplane on the water, used or capable of being used as a means of transportation on water.” Montana does not have a definition of “seaplane” in statute or regulation, nor does it include it in its definition of “vessel.” This poses as a problem because it leaves the state with an unclear idea of how to control them and thus are limited in its ability to make any kind of training or certification mandatory. Washington recently added seaplanes into the definition of a vessel and thus can charge an annual AIS fee. The exclusion of seaplanes from the definition of vessel could potentially increase the chance and spread of invasive species. If seaplane, which require water for transportation, are not included, then where do we draw that distinction?

The Montana Code does not use “motorized” as a term to describe motorized vessels. Instead, the term “motorboat” is used and is defined as: “a vessel, including a personal watercraft or pontoon, propelled by any machinery, motor, or engine of any description, whether or not the machinery, motor, or engine is the principal source of propulsion.” *MCA §61-1-101(40)*. Another term describing motorized vessels is “personal watercraft” and is defined as: “a vessel that uses an outer board motor or an inboard engine powering a water jet pump as its primary source of propulsion and that is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than by the conventional method of sitting or standing in the vessel.” *MCA §61-1-101(54)*. Finally, under this same section, the term “sailboat” is defined as: “a vessel that uses a sail and wind as its primary source of propulsion. The term does not include a canoe or kayak propelled by wind.” *MCA §61-1-101(67)*. The definition of sailboat includes two other forms of vessels that do not require or utilize a motor, however, the term “nonmotorized” is not defined in statute.

Without a definition of nonmotorized included in this provision, managing AIS becomes difficult. Although HB 411 includes a definition of “nonmotorized,” it leaves out important and common vessels like canoes and Stand-Up Paddleboards, which are required to stop at an AIS check station. The addition of Stand-Up Paddleboards as a required vessel for inspection opened the conversation to possibly include other recreational nonmotorized vessels like floating tubes. If the inspection requirement were to include floating tubes, management would become extremely difficult to monitor. However, tubes used for floating do have the possibility of serving as a home for AIS and meet the definition of “vessel.”

Bonds:

Montana's AIS Program enforcement includes the use of commissioned Game Wardens from Fish, Wildlife, and Parks (FWP). Where there is an increased presence of Game Wardens, compliance increases. Their duties include: water safety enforcement, hunter education, boating education, aquatic invasive species, and other priorities. Currently the fine in Montana for failing to stop for a mandatory inspection is an \$85 penalty. In addition to Game Wardens, other law enforcement can enforce aquatic invasive species rules, such as sheriffs, counties and Tribal Wardens. Montana Game Wardens encourage public participation during agency meetings and contact with local legislators regarding legal changes.

A bond, in Montana, is kept in a bond book and includes the violation and sentencing statute. The bond is the appearance in court, while the fine associated with the bond is the penalty set by the legislature. A bonding Committee comprised of three judges sets the minimum fine (e.g. one that can be written up as a ticket on the spot). There are two categories of bonds: negligent drive-by and knowingly and purposely drive-by. In 2017, Montana enforcement agents witnessed 288 drive-bys, with 81 citations and the remainder were warnings. In 2018, Montana enforcement officers witnessed 224 drive-bys, with 51 citations and the remainder were warnings.

Case Study

*Case Study information to be filled in after MISC meeting in Helena, MT.

C. Issue 3: Emerging Species and Species of Concern

1. Background

Exposing the Process or Lack Thereof:

There is no direct listing process for emerging species or species of potential concern within the state of Montana, however, agencies recognize the possible environmental, ecological, and economical threat these species present. Some statutory schemes include emergency response methods or quarantine provisions, but provide little information regarding how an emerging species is declared as invasive species or a potential threat.

In 2016, President Obama and NISC emphasized the role of three emerging priorities: health, climate change, and technology. The NISC also released a management plan to address the need to foster and use innovative technology to prevent rapid outbreaks from emerging pathways. The strategy NISC suggested was to increase education and awareness of the emerging pathways and how much detriment they can be to an economy and to the landscape. Montana is no stranger to education regarding emerging pathways and emerging species of concern. Through the inclusion of EDRR and EDDmaps, Montana's agencies are aware of the threat. The problem is that there is no authoritative control, either in statute or regulation, relating to management or prevention of this emerging species or species of concern. Could the solution be to implement language about emerging species into already existent quarantine and emergency response statutes? Or does this field of invasive species require its own plan and set of regulatory and/or statutory authority? These potential solutions should be further explored for feasibility.

Emergency Response & Quarantine Statutes:

As mentioned previously, the MCA and the Administrative Rules of Montana (ARM) already include statutes and regulations pertaining to emergency response and quarantine authority and could pose as a viable spot for new emerging species prevention and management authorities. The AIS statutes, in the MCA, include an emergency response provision under Section 1013, which gives authority to the Governor and provides three instances when an emergency can be declared, that being if: (1) the introduction or spread of an invasive species has occurred or is imminent; (2) a new and potentially harmful invasive species is discovered in the state and is verified by the departments; or (3) the state is facing a potential influx of invasive species as the result of a natural disaster; *MCA §80-7-1013*.

Another provision detailing emerging response is within the Noxious Weed Trust Fund definitions and describes a “noxious weed emergency” as: “a new and potentially harmful noxious weed growing in the state that has been verified by the department and declared an emergency as provided for in 80-7-815”; *ARM §4.5.101*.

The County Weed Act includes a section that discusses new exotic plant species not previously established in the state; *MCA §7-22-2109*. This section may not use terms like “emerging species” or “species of concern,” however, it is the closest statutory description. Section 2109 details that, “district weed boards enter into agreements with the department for the control and eradication of any new exotic plant species not previously established in the state that may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial use if the plant species spreads or threatens to spread into the state.” The problem with this statute as it relates to emerging species is that there is no statutory definition of “exotic plant species” in Montana.

Although there are statutory avenues in Montana for rapid response and emergency situations, there is no statutory definition of an emerging species or actual listing process for emerging species or species of concern. As mentioned in the *List Review Committee White Paper*, state agencies designate intra-agency lists pertaining to these species.

Case Study

*Case Study information to be filled in after MISC meeting in Helena, MT.

D. Issue 4: Noncompliance with the County Weed Act

1. Background

Noxious Weed Statutory Scheme:

Noxious weed management designates the MDA as the controlling agency, however, most management authority is on the local level through counties. The County Weed Act under Title 7, Chapter 22, Part 21 defines “management authority” as: “the planning and implementation of a coordinate program for the containment, suppression, and, where possible, eradication of noxious weeds”; *MCA §7-22-2100*. Unlike AIS, noxious weeds designation has a direct process

listed in regulatory and statutory authority. *ARM §4.5.201* details that the department designates certain exotic plants listed in these rules as statewide noxious weeds under the County Weed Act (MCA §7-22-2101(5)). Noxious weeds are listed as Priority 1A, Priority 1B, Priority 2A, Priority 2B, and Priority 3 regulated plants.

The County Weed Act also describes the powers and duties of the district weed board and mandates the board to perform certain duties. MCA §7-22-2109 states:

The board shall: (a) administer the district's noxious weed management program; (b) establish management criteria for noxious weeds on all land within the district; and (c) make all reasonable efforts to develop and implement a noxious weed management program covering all land within the district owned or administered by a federal agency.

The County Weed Act also includes a provision that discusses a weed management program. The program must be based on a plan, which must specify goals and priorities, review the distribution and abundance of each noxious weed, specify the pesticide management goals, estimate the personnel, operations, and equipment costs, develop a compliance plan, and incorporate cooperative agreements. *MCA §7-22-2121*.

Noncompliance:

Like the AIS Act and its lack of clarity for direct management authority, the County Weed Act also includes a provision that would require some clarification. The provisions in the County Weed Act that discuss noncompliance are detailed, however, also lacks complete authority over property rights. Noncompliance, in Montana, means to suspect a person has a noxious weed on property, but the private property owner does not allow inspections or entrance onto property. In Montana, individuals have extreme property rights and this can conflict with noxious weed enforcement. This enumerated right inspired the certified letter or post regarding the property under the County Weed Act. However, it still does not address the instances where immediate resolution is required.

Noncompliance of noxious weed control and management on private property is quite a descriptive statutory process. First, a complaint must be made against a landowner or the district weed board has reason to believe that noxious weeds are present on the property. If either is the case, the board is mandated to notify the landowner and shall request permission to enter land for inspection. *MCA §7-22-2131*. The landowner must respond to the notification within 10 days of receipt. If the landowner agrees and gives voluntary compliance, then the board proceeds with the inspection under §7-22-2131. If the board is unable to obtain voluntary compliance, the landowner is considered to be in noncompliance and is subject to actions by the board. *MCA §7-22-2133*. Actions by the board for noncompliance by a landowner are not mandated, however, the board may seek a court order and/or may institute appropriate control measures, including allowing the district coordinator to implement control measures or contracting a commercial applicator. *MCA §7-22-2134*.

The problem with the noncompliance statutes is that there is no provision or phrasing detailing situations when the board would need to enter private property to address an emergency. Although there are other provisions in the County Weed Act that discuss new exotic plant management and strategies, the noncompliance statute does not allow the district weed board to include private property into an emergency management area. The lack of this type of language could pose as a difficulty and end up creating checker-boarded management areas.

Public Perception of Noxious Weeds:

The definition of invasive species and the definition of noxious weed are different, however, a noxious weed can be an invasive species. Due to this slight distinction, identification of noxious weeds as an invasive species can be challenging to the layperson. To combat this problem, the Department of Agriculture and district weed boards publish guidelines for identification and reporting to support the management of these invasive species. Additionally, noxious weed priority lists are public and help the layperson understand what noxious weeds are of more concern than others.

Local Authorities' Responsibilities:

As mentioned previously, control of noxious weeds involves primarily local authorities in statute and regulation. The County Weed Act primarily involves local authorities with oversight authority given to the Department of Agriculture. Municipalities can also become involved in control of nuisance weeds within the city or town lines. The County Weed Act serves as a strong example of local involvement and involvement from members outside of the controlling department. AIS statutes could utilize a stronger local involvement at check stations and for other enforcement purposes. Including local entities like cities and towns could benefit that program greatly and allow for the potential creation of AIS districts, like the weed districts.

Case Study

*Case Study information to be filled in after MISC meeting in Helena, MT.

E. Issue 5: Managing Pathways

1. Background

Pathways:

Managing pathways is a difficult task and in Montana is not in statute, yet some states have developed action plans to combat the transportation of common pathways, such as firewood, pallet wood, and hay. Currently Montana only participates in the national "Don't Move Firewood" campaign to stop travelling invasive species and pests. Other states, like California, utilize agricultural check stations for food pests and cargo pests in hopes of reducing the impact of invasive species. Montana shares an international border with Canada, which is controlled by the Customs and Border Patrol. Although they develop training regarding invasive species control, the training is limited, and they do not have any management authority and rely on

APHIS to determine that method. This type of management will become increasingly difficult if no type of statutory or regulatory authority is created under an existing statutory scheme.

Noxious weed statutes utilize the Noxious Weed Seed Free Forage Act (Title 80, Chapter 7, Part 9) to describe the movement of agricultural crops and commodities. As the closest statute discussing potential pathways, the Noxious Weed Seed Free Forage Act states:

The movement of agricultural crops or commodities as livestock forage, bedding, mulch, and related materials, including pellets, cubes, and other processed livestock feeds with noxious weed seeds, causes new and expanding noxious weed infestations on private and government-managed lands, which adversely impact agricultural, forest, recreational, and other lands. *MCA §80-7-902.*

Although pathway is not a defined term in statute, this provision serves as the best example of management authority over the movement of potentially invasive items.

The Problem with Implementation:

The concern with managing pathways over distinct invasive species involves the use of multi-agency processes, regulating borders more stringently, and creating a distinction between what is and what is not a pathway.

First, a pathway focus requires the efforts of multiple agencies. Like the AIS Act, pathway prevention would most likely be a collaborative approach since most of the pathways involve crossing state or country borderlines. For example, firewood is often brought in from another state, thus having the possibility of transporting forest pests and diseases into the state. The management of this pathway would require the inclusion of both federal and state agencies, including the DNRC, MDOT, NPS, and NFS.

Second, as previously mentioned, control of a pathway would involve both federal and state agencies. Because Montana share an international border with Canada, the US Customs and Border Protection agency would also need to be considered as a collaborating agency. The CBP has authority over what they let into the country, but also are required to abide by APHIS' management authority pertaining to invasive species. However, control of invasive species does not necessarily mean control of pathways. If pathways are to become a focus of invasive species management, then CBP would need concrete management authority given by APHIS.

Third, if regulation of pathways is to become a management tactic, then the distinction between what is and what is not a pathway would need to be clarified. As mentioned in the *List Review Committee White Paper*, the NISC provides a definition of pathways, which are the means and routes by which invasive species are introduced into new environments. According to NISC, pathways can either be natural—wind and currents—or man-made, which can be either intentional or unintentional. Most pathways of concern fall under the unintentional man-made distinction and include ballast waters, firewood, hay, and recreational watercrafts. The biggest problem amongst this list is the definition of recreational watercrafts. What qualifies as a

watercraft in each state can differ enormously. The problem with this term is discussed below in Issue 5.

Case Study – Firewood

*Case Study information to be filled in after MISC meeting in Helena, MT.

IV. RECOMMENDATIONS

This section will result from table talk findings with the Statutory Review Committee in Helena, Montana.

V. CONCLUSION

This section will result from table talk findings with the Statutory Review Committee in Helena, Montana.